

3 May 2023

Energy Markets Policy
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

By email: HazardsFromTrees@mbie.govt.nz

Submission on: Review of the Electricity (Hazards from Trees) Regulations 2003 – Discussion Document

1. Executive summary

1.1 The Consumer Advocacy Council recommends:

- a. The tree regulations need to take a long-term focus and help ensure an affordable, resilient and safe electricity supply for consumers.
- b. Clear information must be available to consumers about their rights and responsibilities under the regulations.
- c. The works owner should take all fair and reasonable steps to keep vegetation owners informed of issues which may affect a safe and reliable electricity supply.
- d. The works owner should make every reasonable effort to contact the vegetation owner about tree hazards on that vegetation owner's property.
- e. If the proposed work is not agreed to by the vegetation owner there should be an opportunity for dispute resolution.
- f. Where safety and supply are at imminent risk and provided the works owner has evidence to substantiate the hazard, the works owner should be able to access the property and remove the safety hazard.
- g. The vegetation owner can appeal the action taken by the works owner in respect of imminent risk and receive damages and costs if the works owner acted unreasonably.
- h. The works owner pays for all costs, including removal of debris, associated with the management of vegetation on and around the consumer's property.
- i. UDL should provide the dispute resolution service and be named as the arbitration body in the tree regulations. This service would be free to consumers.
- j. Works owners should provide proactive advice to consumers on appropriate plants which will not put the network at risk.

2. Introduction

- 2.1 This submission is from the Consumer Advocacy Council (the Council), the independent advocate for residential and small business electricity consumers in Aotearoa New Zealand.
- 2.2 Our submission is informed by research, in particular the Council's in-depth sentiment survey of residential and small business electricity consumers, released 22 April 2023. The survey findings will be referred to in this submission and the full report is available at:
<https://www.cac.org.nz/our-work/our-research/sentiment-survey-2022/>

3. General comments

- 3.1 The Council recognises the importance of the Electricity (Hazards from Trees) Regulations 2003 (the regulations) in enhancing a safe, reliable and sustainable electricity supply for all New Zealanders. Loss of electricity supply can in and of itself introduce considerable safety issues as it takes with it such things as the ability to communicate when internet and mobile phone systems become inoperable.
- 3.2 The Council also recognises the property rights of property owners, the amenity and environmental values provided by vegetation, and the impact on these of the regulations.
- 3.3 Fair and workable rules are crucial. As the discussion document notes, climate change will increase the frequency of storms and the potential for damage to electricity networks from falling trees. The extreme weather events New Zealand experienced in January and February highlight the significant effects of such storms. The regulations will play a part in managing the risks to electricity supply and public safety from future events.
- 3.4 The Council strongly supports the review of the regulations MBIE is undertaking. Decisions made to change the existing regulations will have a long-term impact on consumers and therefore consumers need to be at the heart of these changes.

4. Specific comments

4.1 What residential consumers and small businesses want

- 4.1.1 The Council's consumer sentiment survey, undertaken in November/December 2022, highlighted the importance to consumers of an affordable and resilient electricity system:
 - 80% of residential consumers and 86% of small businesses believe electricity needs to be affordable for all New Zealanders.
 - 74% of residential consumers and 84% of small businesses say ensuring the electricity system is resilient to extreme weather events is important.
 - 57% of residential consumers and 59% of small businesses are concerned the system will not be resilient to power outages caused by storm events over the next 10 years.
- 4.1.2 Given the recent weather events, changes to the regulations will need to consider consumers carefully. The view taken must be for the long term and changes must help to ensure an affordable, resilient and safe electricity supply.
- 4.1.3 Consumers will also require clear information about their rights and responsibilities under the regulations to help ensure the rules are understood and achieve their purpose.

Recommendations:

- a. The tree regulations need to take a long-term focus and help ensure an affordable, resilient and safe electricity supply for consumers.
- b. Clear information must be available to consumers about their rights and responsibilities under the regulations.

4.2 Safe and reliable supply versus amenity and financial value

- 4.2.1 The Council understands the competing interests of ensuring a safe and reliable supply versus the financial and amenity value trees provide vegetation owners.
- 4.2.2 As noted in 4.1.1, resilient supply matters greatly to residential and small business consumers. The onus should be on the works owner to communicate effectively with the vegetation owners to ensure the latter understand why the works owner believes certain actions are necessary.
- 4.2.3 The works owner should take all fair and reasonable steps to keep vegetation owners informed of issues, both emerging and actual, which may affect a safe and reliable electricity supply. Vegetation owners have a responsibility to cooperate with works owners to ensure other consumers are not adversely affected or risk the safety of other consumers and works owners' staff.
- 4.2.4 The works owner should make every reasonable effort to communicate with the vegetation owner before taking action. Communication attempts should include:
 - issuing a notice informing the vegetation owner of the issue and the proposed action by the works owner; and
 - attempting at least one traceable form of contact, e.g., a courier letter requiring a signature, a representative of the works owner visiting the property to deliver a notice and / or meet with the vegetation owner; and
 - waiting at least seven days from each communication before taking further action.
- 4.2.5 If the vegetation owner does not agree to the proposed work being undertaken or is silent on the works to be undertaken, there should be:
 - an opportunity to resolve the dispute by way of mediation and if that is unsuccessful, arbitration. See our comments on the resolution of disputes – section 4.4.

Recommendations:

- c. The works owner should take all fair and reasonable steps to keep vegetation owners informed of issues which may affect a safe and reliable electricity supply.
- d. The works owner should make every reasonable effort to contact the vegetation owner about tree hazards on that vegetation owner's property.
- e. If the proposed work is not agreed to by the vegetation owner there should be an opportunity for dispute resolution.

4.3 Imminent risks

- 4.3.1 Where safety and supply are at imminent risk and provided the works owner has evidence to substantiate the hazard, the works owner should be able to access the property and remove the safety hazard immediately.
- 4.3.2 In the circumstances described in 4.3.1, the vegetation owner can appeal the action taken and receive damages and costs if the works owner acted unreasonably.
- 4.3.3 If the works owner is prohibited access by the vegetation owner, the vegetation owner may be held liable for costs associated with the impact on other consumers affected by the lack of supply.

Recommendations:

- f. Where safety and supply are at imminent risk and provided the works owner has evidence to substantiate the hazard, the works owner should be able to access the property and remove the safety hazard.
- g. The vegetation owner can appeal the action taken by the works owner in respect of imminent risk and receive damages and costs if the works owner acted unreasonably.

4.4 Who pays

- 4.4.1 The Council's consumer sentiment survey highlighted consumers concerns about electricity costs:
- 69% of residential consumers and 57% of small business consumers are concerned electricity will become unaffordable for some over the next 10 years
 - 52% of residents and 39% of small businesses worry electricity will be unaffordable for them over the next 10 years.
- 4.4.2 It is in works owners' interests to protect their networks. Regular maintenance of trees can make a significant contribution to ensuring a safe and reliable supply and reducing the cost of network repairs. Works owners have a responsibility to identify risks and control the management of those risks. Costs associated with the management of vegetation on and around the consumer's property, including costs of debris removal, should be met by the works owner.

Recommendation:

- h. The works owner pays for all costs, including removal of debris, associated with the management of vegetation on and around the consumer's property.

4.5 Resolution of disputes

- 4.5.1 An efficient, fair, responsive, efficient, and accessible service which effectively resolves disputes is necessary.
- 4.5.2 Council notes Utilities Disputes Ltd (UDL) is the legislatively approved dispute resolution organisation for the energy sector. Information about UDL is required on all consumer invoices and in documentation for consumers who have a complaint. We understand that UDL has handled a number of complaints between consumers and works owners about trees. The Council supports the continuation of this service for disputes between works owners and vegetation owners.

- 4.5.3 The Council notes the Tree Arbitrator has been in place for some years. However, the role is not well known or utilised, and has significantly less visibility than UDL.
- 4.5.4 Council would support UDL providing the dispute resolution service under the regulations and being named as the arbitration body in the regulations.
- 4.5.5 The provision of this arbitration service would be free to consumers.

Recommendation:

- i. UDL should provide the dispute resolution service and be named as the arbitration body in the tree regulations. This service would be free to consumers.

4.6 Advice on appropriate plants

- 4.6.1 The Council believes works owners should be proactive in providing advice to consumers encouraging planting which will not put the network at risk.

Recommendation:

- j. Works owners should provide proactive advice to consumers on appropriate plants which will not put the network at risk.

5. Conclusion

- 5.1 We wish to thank MBIE for the opportunity to submit on the Discussion Document – Review of the Electricity (Hazards for Trees) Regulations 2003.
- 5.2 If you have any further queries regarding our submission do not hesitate to contact Emma Sturmfels – Principal Advisor Consumer Advocacy Council, on either emma.sturmfels@cac.org.nz or 021 812 663.

Yours sincerely



Deborah Hart

Chair – Consumer Advocacy Council