



COVERSHEET

Minister	Hon Simeon Brown	Portfolio	Energy
Title of Cabinet paper	Electricity (Hazards from Trees) Amendment Regulations 2024	Date to be published	1 November 2024

List of documents that have been proactively released

Date	Title	Author
September 2024	Electricity (Hazards from Trees) Amendment Regulations 2024	Office of the Minister for Energy
12 September 2024	Electricity (Hazards from Trees) Amendment Regulations 2024 LEG-24-MIN-0178 Minute	Cabinet Office

Information redacted

YES

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 reasons of confidentiality of third party information.

In Confidence

Office of the Minister for Energy
Chair, Cabinet Legislation Committee

Electricity (Hazards from Trees) Amendment Regulations 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Electricity (Hazards from Trees) Amendment Regulations 2024.

Executive Summary

- 2 Trees or parts of trees falling on power lines is a common cause of electricity outages, particularly during extreme weather events. In the wake of Cyclone Gabrielle, there has been renewed focus on improving the security of electricity supply.
- 3 The primary concern expressed by lines owners (Transpower and distribution networks) is that the Electricity (Hazards from Trees) Regulations 2003 (“the Regulations”) do not allow them to trim or remove trees outside the Growth Limit Zone (GLZ) which could fall on their lines. The GLZ is the regulated zone around electricity lines which must be kept clear of vegetation.
- 4 To address these concerns and improve public safety and security of electricity supply, on 13 May 2024, Cabinet agreed [ECO-24-MIN-0071 and CAB-24-MIN-0156] to the following amendments to the Regulations:
 - 4.1 that Growth Limit Zones be required to be “clear-to-the-sky”, and
 - 4.2 to extend the notice zone in the Regulations (for vegetation that risks encroaching the Growth Limit Zone) by one metre.
- 5 These amendments will reduce the risk to lines from vegetation and reduce costs.
- 6 Targeted consultation with key stakeholders on the exposure draft of the amendments to the Regulations raised some workability issues with the “clear-to-the-sky” proposal.
- 7 As a result, I propose the following minor modifications:
 - 7.1 exclude low voltage lines (11kV and below) from the extension of the GLZ to “clear-to-the-sky”
 - 7.2 exclude aerial bundled conductors and other insulated conductors of any voltage that from the extension of the GLZ to “clear-to-the-sky”

IN CONFIDENCE

- 7.3 exclude trees protected under Council District Plans from the extension of the GLZ to “clear-to-the-sky”
- 7.4 set a transition period of 2 years.

Policy

- 8 The way the GLZ is currently defined means that vegetation can overhang or tunnel around lines. This creates a heightened risk of branches falling onto power lines. Subject to some modifications, highlighted below, the amendments to the Regulations will result in lines having a vegetation-free zone above them that is unlimited in distance.
- 9 There is a hazard notice zone which allows lines owners to send a notice to alert tree owners that their vegetation risks encroaching on the GLZ. The extension of this notice zone by one metre would allow tree owners to get earlier notice of this risk and give them more, cheaper options to trim the trees.

Background

- 10 The Regulations were made in 2003 to deal with the risk to electricity supply resilience posed by vegetation encroaching on lines. Ministry of Business, Innovation and Employment (MBIE) has been undertaking a review of the Regulations.

The proposed amendments to the Regulations

- 11 On 13 May 2024 Cabinet agreed [ECO-24-MIN-0071 and CAB-24-MIN-0156] to the following amendments:
 - 11.1 Growth Limit Zones be required to be “clear-to-the-sky”, and
 - 11.2 extend the notice zone in the Regulations (for vegetation that risks encroaching the Growth Limit Zone) by one metre.
- 12 Cabinet also noted that I intended to allow an appropriate transition period to allow line and tree owners time to adjust to the new Growth Limit Zones.
- 13 The Electricity (Hazards from Trees) Amendment Regulations 2024 will implement these decisions by amending the regulations to:
 - 13.1 extend the growth limit zone in the principal Regulations to be “clear-to-the-sky” without an upper vertical limit sky for high voltage lines with spans less than or equal to 150m and for lines with spans more than 150m
 - 13.2 extend the notice zone by an additional metre
 - 13.3 provide a grace period of 2 years in relation to the new growth limit zone, after which it will be compulsory for lines owners to give notices

requiring trees encroaching in the new growth limit zone to be cut or trimmed.

- 14 Diagrams explaining the changes are attached at **Appendix One**.

Modifications in response to submissions on the exposure draft

- 15 Targeted consultation on an exposure draft of the Electricity (Hazards from Trees) Amendment Regulations 2024 (“the exposure draft”) highlighted some workability issues, and I am seeking policy agreement from Cabinet Legislation Committee (LEG) to the following modifications.

Exclude low voltage lines from the “clear-to-the-sky” requirement (for lines with spans of less than 150m)

- 16 The Electricity Networks Aotearoa (ENA) highlighted some risks with the changes to the GLZ set out in the exposure draft, including concerns around increases in disputes and costs for electricity customers and residential tree owners in urban areas.
- 17 To reduce these costs, while preserving the benefits, [REDACTED] the GLZ should only be extended to be “clear-to-the-sky” for high voltage lines above 11kV (Transpower’s lines and electricity distribution business’s sub-transmission lines).
- 18 I agree that this change would balance the benefits of greater security against potential compliance costs. I propose that the extension of GLZ to be “clear-to-the-sky” should be modified to exclude lines of 11kV and below that have spans of less than or equal to 150 metres”.
- 19 In addition, given that aerial bundled conductors and other insulated conductors are at relatively low risk from encroaching trees, I propose they be treated in the same way as low voltage lines, and be excluded from the “clear-to-the-sky” extension to the GLZ for spans less than or equal to 150 metres.

Exclude protected trees from the “clear-to-the-sky” requirement

- 20 Councils protect some trees under their District Plans, relying on powers conferred by the Resource Management Act 1991. Many submitters have said that if lines and tree owners trimmed such trees to achieve the “clear-to-the-sky” outcome, this could create a much sharper conflict with the rules that Councils apply to protect such trees.
- 21 For example, many Councils include a list of such trees in schedules to District Plans, with specific rules limiting the degree of trimming that can take place without consents. These conflicts would be difficult and time-consuming to resolve.
- 22 To avoid this conflict, I propose that trees protected under a district plan be excluded from the “clear-to-the-sky” extension of the GLZ. These trees are regularly maintained by local councils and therefore are of low risk to lines.

The transition period

- 23 Submissions on the exposure draft indicated that the recommended amendments to the Regulations above will take longer than 12 months to implement and Orion asked for up to 4 years. I consider that 2 years will be sufficient given the exclusion of low voltage lines from the “clear-to-the-sky” proposal.
- 24 I therefore intend to set a transition period of 2 years to allow line and tree owners time to adjust to the new GLZ.
- 25 This means that until 16 October 2026, it will be optional for works owners to give cut and trim notices in relation to trees that encroach the new areas of the Growth Limit Zone. From 17 October 2026, it will be compulsory for works owners to give cut and trim notices for any encroaching trees in the new Growth Limit Zone.

Timing and 28-day rule

- 26 The Electricity (Hazards from Trees) Amendment Regulations 2024 will come into force on 17 October 2024, which complies with the requirement that regulations must not come into force until at least 28 days after they have been notified in the *New Zealand Gazette*.

Compliance

- 27 The Electricity (Hazards from Trees) Amendment Regulations 2024 comply with:
- 27.1 the principles of the Treaty of Waitangi;
 - 27.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 27.3 the principles and guidelines set out in the Privacy Act 2020;
 - 27.4 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 28 The proposed amendments to the Regulations are not expected to have a significant impact on children, seniors, disabled people, women, people who are gender diverse, Māori, Pacific peoples, veterans, ethnic communities, and faith-based communities.

Regulations Review Committee

- 29 There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives as a Standing Order requirement.

Certification by Parliamentary Counsel

- 30 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 31 A Regulatory Impact Statement (RIS) was submitted at the time that Cabinet approval was sought of the policy relating to the Regulations. [CAB-24-MIN-0156]. The Ministry of Business, Innovation and Employment's Quality Assurance panel reviewed the RIS and confirmed that it met the criteria.
- 32 The Ministry for Regulation has determined that the proposed modifications to the "clear-to-the-sky" amendment are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has been addressed by existing impact analysis (referred to above), and the changes to the initial proposal have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

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

Publicity

- 34 The Electricity (Hazards from Trees) Amendment Regulations 2024 will be notified in the New Zealand Gazette.

Proactive release

- 35 I propose to proactively release this Cabinet paper subject to any necessary redactions. This would be done within 30 business days following confirmation of Cabinet's decisions.

Consultation

- 36 The Treasury, Ministry for Primary Industries, Ministry for the Environment, Department of Conservation, Ministry for the Environment, Te Arawhiti, Infrastructure Commission, Commerce Commission and WorkSafe New Zealand were consulted on the development of the policy proposals.
- 37 The Tree Arbitrator, Transpower, Electricity Networks Aotearoa, New Zealand Institute of Forestry, New Zealand Farm Forestry, New Zealand Forest Owners Association, New Zealand Forest Managers, New Zealand Arboricultural Association, and Central North Island Iwi Land Management Ltd were also consulted on the exposure draft of the Electricity (Hazards from Trees) Amendment Regulations 2024.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **Note** that on 13 May 2024 Cabinet agreed to require Growth Limit Zones to be “clear-to-the-sky” and to extend the notice zone in the Electricity (Hazards from Trees) Regulations 2003 (for vegetation that risks encroaching the Growth Limit Zone) by one metre [ECO-24-MIN-0071 and CAB-24-MIN-0156].
- 2 **Agree** to exclude low voltage lines (11kV and below) that have spans of less than or equal to 150 metres from the “clear-to-the-sky” extension of the Growth Limit Zone.
- 3 **Agree** to exclude aerial bundled conductors and other insulated conductors of any voltage that have spans of less than or equal to 150 metres from the “clear to the sky” extension to the GLZ.
- 4 **Agree** that trees protected under a district plan be excluded from the “clear-to-the-sky” extension of the GLZ.
- 5 **Agree** that the transition period for the “clear-to-the-sky” extension to Growth Limit Zones should be 2 years.
- 6 **Note** that the Electricity (Hazards from Trees) Amendment Regulations 2024 will give effect to the decisions referred to in paragraphs 1, 2, 3 and 4 above.
- 7 **Authorise** the submission to the Executive Council of the Electricity (Hazards from Trees) Amendment Regulations 2024.
- 8 **Note** that the Electricity (Hazards from Trees) Amendment Regulations 2024 come into force on 17 October 2024.

Authorised for lodgement.

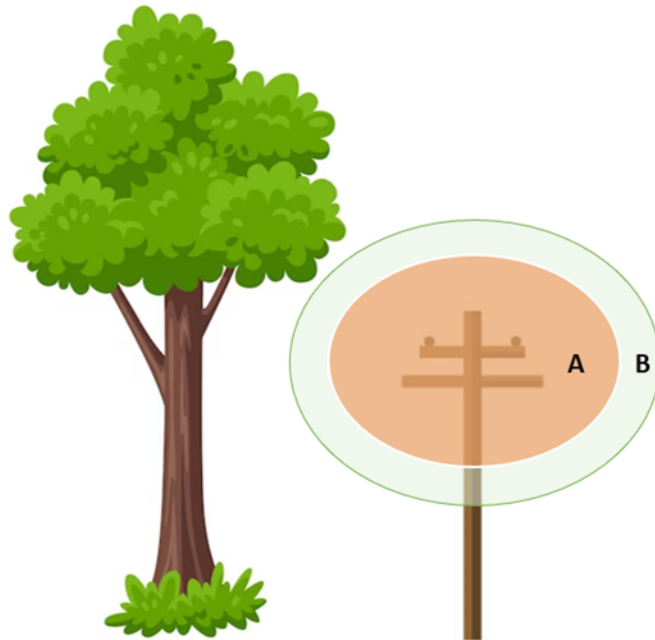
Hon Simeon Brown

Minister for Energy

**Appendix One: Draft Cabinet paper – Diagrams of the amendments
to the Electricity (Hazards from Trees) Regulations 2003**

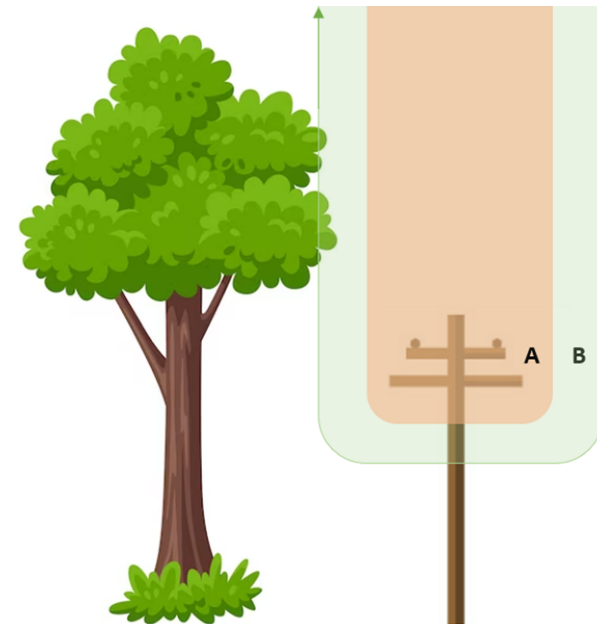
Appendix One: Diagrams of the amendments to the Electricity (Hazards from Trees) Regulations 2003

Current regime



- Currently the Growth Limit Zone (GLZ), denoted by letter A, is in all directions around the conductors at a distance based on the voltage of the line.
- Currently there is a 'notice zone' surrounding the GLZ by 1m, denoted by letter B. If vegetation encroaches into this zone, line owners can send tree owners a hazard warning notice alerting them that this has happened.

Amendments



- The GLZ would be extended upwards to prevent tree overhang for lines with voltages >11kV.
- The 'notice zone' would be extended by 1m (for all lines) allowing for earlier notification and more scope for the tree owner to address the risk before vegetation grows into the area in which specialist utility arborists are needed.