

23 June 2015

Mr Johan Esterhuizen  
General Manager Asset Strategy Electrical  
Jemena Limited  
321 Ferntree Gully Road  
MOUNT WAVERLEY VIC 3149

Dear Mr Esterhuizen

**SUBMISSION TO THE REGULATORY IMPACT STATEMENT FOR THE PROPOSED  
ELECTRICITY SAFETY (ELECTRIC LINE CLEARANCE) REGULATIONS 2015**

Energy Safe Victoria (ESV) thanks you for your submission in relation to the Regulatory Impact Statement for the proposed Electricity Safety (Electric Line Clearance) Regulations 2015 (the proposed Regulations).

ESV carefully reviewed all submissions after the close of the public consultation period. Stakeholder feedback has enabled ESV to improve the intent and content of the proposed Regulations.

ESV has made all submissions publicly available on its website, other than those that requested confidentiality.

**Summary of key changes**

Based on stakeholder feedback, ESV made the following changes to the public consultation version of the proposed Regulations:

- Changing the commencement date to 28 June 2015 (to avoid overlap with the 29 June 2015 expiry of the 2010 Regulations and Code of Practice) and aligning the transitional and expiry provisions accordingly.
- The exception allowing structural branches to be within the minimum clearance space for insulated low voltage electric lines in low bushfire risk areas (LBRA) was modified to apply to hazardous bushfire risk areas as well.
- ESV re-introduced the exception allowing small branches (less than 10mm wide) to be within the minimum clearance space for insulated low voltage electric lines. In the consultation version, the exception applied only to small branches protruding from structural branches, but will now apply independently of a structural branch.
- The exception allowing structural branches to be within the minimum clearance space for uninsulated low voltage electric lines in LBRA was modified to apply to a structural branch of lesser diameter size (more than 130mm wide instead of 400mm) and also to allow the branch to be further inside the clearance space (up to 500mm instead of 200mm), in order to make the exception more practicable.

- The 'near to pole' provisions in the tables in the current 2010 Code of Practice were inadvertently omitted during the process of translating minimum clearance distances into the formulae and graphs in the new Code. Feedback noted that the loss of these provisions would lead to increased clearances. The 'near to pole' provisions have been re-instated as reflected in reduced clearance distances for the first and last one-sixth of line spans.
- The notification and consultation requirements were reviewed as feedback identified lack of clarity with respect to the requirements of these clauses and overly prescriptive requirements. The policy intent of the consultation, notification and dispute resolution clauses did not change but the clauses were reviewed to improve clarity.
- ESV reviewed the duties of distribution companies and railway and tramway network owners and operators to assist councils on request in relation to the safety of clearance around electric lines and determining allowances for sag and sway. The scope of the duties was amended so that the businesses and network owners/operators must provide advice about safe limits of approach and safe methods for tree cutting and removal. In the case of determining sag and sway, it will be the primary responsibility of councils to retain a record of the information provided to them.

#### **Other issues raised by the electricity distribution businesses**

A number of issues and suggestions in submissions made by the distribution businesses have not been adopted in the proposed Regulations. Attached is a summary of those issues and ESV's response.

#### **Availability of the proposed Regulations**

ESV anticipates that the proposed Regulations will be made by the Governor-in-Council on 23 June 2015 and will be available online at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) after making. The proposed Regulations will commence on 28 June 2015.

ESV has prepared a Statement of Reasons for the changes made to the proposed Regulations following public consultation. The statement, which will be available on ESV's website ([www.esv.vic.gov.au](http://www.esv.vic.gov.au)), on the making of the proposed Regulations, addresses the changes made to the proposed Regulations after public consultation.

Yours sincerely



Dr Roanne Allan  
**EXECUTIVE MANAGER POLICY AND STRATEGY**

## Proposed Electricity Safety (Electric Line Clearance) Regulations 2015

### ESV response to submissions by Victorian electricity distribution businesses

The following is a summary of issues and suggestions made by electricity distribution businesses (DBs) during public consultation that were not adopted in the proposed Regulations.

Issue	Summary	ESV response
<p>Adoption of AS 4373</p>	<p>DBs do not support the adoption of Australian Standard AS 4373 <i>Pruning of Amenity Trees</i> (AS 4373) in the regulations for the following reasons:</p> <ul style="list-style-type: none"> <li>AS 4373 is not intended to apply to cutting near power lines and it is not practicable to comply with it for that purpose. Compliance to the standard will require clearing beyond the clearance space and result in increased cutting, increased costs and adverse amenity impacts.</li> <li>there may be conflicting requirements in relation to vegetation worker training and qualifications between AS 4373 and the regulations, and potential limitation of currently accepted pruning practices.</li> <li>the focus of AS 4373 is tree amenity but the Code requires cutting to achieve a clearance space, not for amenity. Pruning of trees cannot generally be carried out in a way that preserves their amenity, which is secondary to electricity safety.</li> </ul>	<p>AS 4373 recognises that one of the purposes of cutting trees is to maintain clearances for utilities. The introduction of AS 4373 into the regulations is intended to minimise the adverse effects that cutting to achieve Code clearances may have on the health and amenity of vegetation. The duty of the responsible person is to cut trees according to AS 4373 “as far as practicable”. The proposed Regulations provide scope for the responsible person to include alternative procedures in management plans if the responsible person cannot comply with AS 4373 or does not consider it practicable to cut to the Standard while achieving compliance to the Code.</p> <p>ESV anticipates that the introduction of AS 4373 will ensure and enhance quality, accountability and acceptability of cutting practices in achieving compliance with the Code.</p>



Issue	Summary	ESV response
Aligning plan cycles	The five-year acceptance cycle that applies to electricity safety management schemes and bushfire mitigation plans should also apply to electric line clearance management plans.	In 2012 ESV sought the input of stakeholders about aligning the renewal cycles for ESMS, BMP and the electric line clearance management plans in a discussion paper for the review of statutory provisions governing bushfire risk mitigation in relation to electricity assets in Victoria. At the time there was little interest expressed collectively by stakeholders.
Native trees	Delete the reference to 'native trees' in the Code because the growth of unsuitable native trees within powerline easements in particular increases the risk of bushfire and costs associated with vegetation clearance.	There is adequate regulatory capacity to address unsuitable trees under or near powerlines. Section 86A of the <b>Electricity Safety Act 1998</b> allows ESV to give directions for the restriction or prevention of tree growth.
Alternative compliance mechanism (ACM)	Recommend adding an additional subclause (e) to clause 32(1) <sup>1</sup> , as follows: '(e) the alternative compliance mechanism will achieve a comparable or improved power line safety outcome.'	New technologies will likely form the basis of ACM applications and it is not yet clear what type of mechanisms may be proposed for approval. ESV does not wish to limit the opportunities for consideration.
Acceptance of submitted management plans	The regulations do not currently include a timeframe for ESV's assessment and response to vegetation management plans submitted by responsible persons. Proposes the inclusion of 21 business days as a reasonable timeframe for ESV to consider submitted plans.	ESV's corporate targets include review of management plans within 1 month and determination within 3 months of receipt.

<sup>1</sup> Now clause 33(1) in the Code as finalised.