

**CITY OF GREATER GEELONG**

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RIS submissions  
Risk, Regulatory Planning and Policy  
Energy Safe Victoria  
PO Box 262  
Collins Street West  
MELBOURNE VIC 8007

6 March 2020

To Whom it may concern

**Re: Proposed Electricity Safety (Electric Line Clearance) Regulations 2020**

Thank you for the opportunity to comment upon proposed Electricity Safety (Electric Line Clearance) Regulations 2020. In addition to general comments we have provided a table of detailed comments to the changes in Appendix 1.

The City of Greater Geelong is Victoria's second largest city, 75km south west of Melbourne. The City contains a mix of coastal, country and suburban communities in both low and high bushfire risk areas. We currently inspect more than 40,000 trees that are within the vicinity of powerlines

The City of Greater Geelong and its community aspire to a cool green city and need an integrated and sustainable electricity transmission network that contributes to an inclusive, prosperous and environmentally responsible municipality to achieve this. These aspirations are reflected in the City of Greater Geelong's Sustainability Framework, Urban Forest Strategy and Environment Management Strategy. Therefore, we ask that

- The objectives of the regulations address the need for Electric Line Clearance Management Plans to address the contribution of trees to social and economic inclusion and prosperity and environmental sustainability and how the Electric Line Clearance Management Plan can support these objectives through the management of vegetation clearance around powerlines.
- That a review of the act is advanced to enable Local Government to have greater representation on the Electric Line Clearance Consultative Committee. At present there is only one position to represent 79 Local Government Authority's, as opposed to three members from the distribution companies. An increase in Local Government membership would allow for greater diversity of opinions in regard to the clearance of trees near powerlines.
- That penalties should be applied when non-compliant infrastructure is installed near Councils tree assets. It is not uncommon to find new infrastructure, particularly service wires have been installed within the canopy of the tree making a previously compliant tree non-compliant. Currently the distribution companies require Councils to cover the cost of moving infrastructure and there is little cooperation when the fault should have been avoided. Ensuring compliance prior to installation preserves safety and canopy cover.

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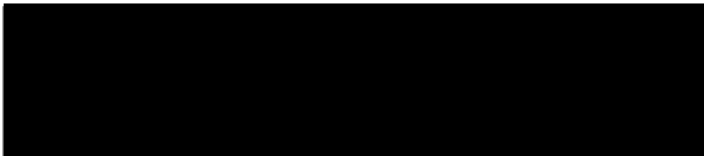


- Penalties should be applied, or authority for penalties under a Local Law provided, when trees are not cut to Australian Standard AS4373 Pruning of Amenity Trees after the minimum clearance has been met. It is a common occurrence to find Council trees pruned from powerlines with pruning cuts that are not compliant with AS4373 and do not promote tree health once the minimum clearance has been met. Examples of trees pruned by the distribution business have been provided in Appendix 2.

Please note that the City of Greater Geelong also strongly objects to the move to reduce the qualification requirements for suitably qualified arborists working on Council assets and this proposal is not consistent with the Coroners recommendations on tree risk management. More detailed comments on this and other changes have been provided in Appendix 1.

We thank you for considering our comments and hope that they assist with making well informed and beneficial changes to the regulations.

Yours sincerely



DIRECTOR

CITY SERVICES

## Appendix 1

Category of change	Description of change	Location	CoGG comments
Broad change	<p>Change to the objective of the regulation to include a reference to protecting the health of trees</p> <p><u>Wording of new regulations</u></p> <p>The objectives of these Regulations are... (b) to prescribe—</p> <p>(i) standards and practices to be adopted and observed in tree cutting or removal in the vicinity of electric lines and the keeping of the whole or any part of a tree clear of electric lines, including standards and practices to protect the health of trees that require cutting in accordance with the Code; and</p> <p>(ii) a requirement that certain responsible persons prepare management procedures to minimise the danger of trees contacting electric lines and causing fire or electrocution or interruptions to electricity supply; and ...</p> <p>(c) to require responsible persons to minimise the impacts of cutting on indigenous and significant trees and the habitat of threatened fauna; and</p>	Part 1, Regulation 1	Supported
Management plans	Re-worded the regulations such that responsible persons excluding a major electricity company must prepare a management plan annually	Part 1, Regulation 9(2)	Supported
Management plans	<p>Change to the requirement such that major electricity companies must prepare and submit a management plan relevant for a 5-year period.</p> <p><u>Wording of new regulations</u></p>	Part 1, Regulation 9(3)	Supported.



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	(3) A responsible person that is a major electricity company must before 31 March 2021 prepare and submit to Energy Safe Victoria for approval a management plan relating to compliance with the Code for the period from 1 July 2021 to 30 June 2026	Part 1, Regulation 10(2)	
Management plans	Included an additional requirement of a map in the management plan to show HBRA (High Bushfire Risk Area) and LBRA (Low Bushfire Risk Area) that are related to area covered by the plan	Part 1, Regulation 9(4)(f)	<p>Qualified support</p> <p>For councils and authorities that have a large amount of both LBRA &amp; HBRA areas the provision of maps that are adequate for operational use can result in a document that is unwieldy and not suitable for operational use.</p> <p>The City of Greater Geelong provides maps indicating the general boundaries in the Plan and provides operational access to the maps through in-house mapping systems.</p> <p><u>The proposed change does not provide guidance on how the maps should be presented within the plan and for what purpose they serve (if for operational or for guidance purposes).</u></p>
Management plans	Change the word 'native' to 'indigenous to Victoria'	Part 1, Regulation 9(4)(g)	Supported
Insulating cover	Updated the definition of an insulated cover and links to related standards	Schedule 1, Part 1, Regulation 1	Supported
Insulating cover	Change the definition of an insulated cable based on new definition of an insulated cover.	Schedule 1, Part 1, Regulation 1	Supported
Suitably qualified arborist	Change the definition of a suitably qualified arborist from Certificate 4 in arboriculture to a Certificate 3 in arboriculture, including a ground-based tree assessment training module. This has been prompted by training providers no longer providing Certificate 4 in Victoria.	Schedule 1, Part 1, Regulation 1	<p>Not Supported</p> <p>The proposed reduction in the qualifications of a "suitably qualified arborist" under the Regulations appears to be inadequate in meeting the objectives of the Regulations, as well as carrying out its functions relating to assessment of trees subject to the Regulations. The definition of "suitably qualified arborist" under the proposed</p>

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			<p>Regulations means an arborist who has <i>“the qualification of National Certificate III in Arboriculture including the “Perform a ground-based tree defect evaluation” unit of competency, or an equivalent qualification.”</i> This will mean a reduction from a Level 4 qualification, to a Level 3.</p> <p>A <i>“suitably qualified arborist”</i> is required under the Regulations to make assessments on the health and safety of a tree and its branches, as well as carrying out pruning of trees where they enter into the <i>“minimum clearance space”</i> of an electric line.</p> <p>Clauses 4, and 9 of Schedule 1 all involve a <i>“suitably qualified arborist”</i>, within the definition under the proposed Regulations, making an assessment on the structural integrity of the tree, as well as the risks it may pose.</p> <p>As outlined above, a <i>“suitably qualified arborist”</i> under the proposed Regulations is an arborist with a Level 3 qualification which includes the <i>“ground-based tree defect evaluation”</i> unit of competency or equivalent, and three years of field experience. However, the adequacy of the Level 3 level of competency has been found to be inadequate for an arborist who is tasked with making assessments on the structural safety of a tree and its branches.</p> <p>A 2015 Coronial Inquest (Inquest) involving Bendigo Council investigated the death of a 4-year old girl who was killed by a large branch which fell from a tree in a public park in Bendigo. The tree was found to have been assessed by a Council arborist 3 months prior to the incident, who completed a ground-based assessment of the tree and determined that the tree showed no outward visible signs from the ground which would warrant a further inspection.</p> <p>Following the Inquest, the Coroner made eight recommendations, one of which was that:</p>

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			<p><i>"All inspections must be undertaken by a qualified (Level 4 or above) arborist. We are generally of the view that a Level 5 qualification or above is preferred, but this may not be applicable to all council-based situations at present."</i></p> <p>Whilst the Inquest relates to a Council arborist as opposed to a <i>"suitably qualified arborist"</i> under the Regulations, which could encompass both a Council arborist or an arborist engaged by a <i>"responsible person"</i> such as Energy Safe Victoria, the findings are still relevant as they consider the minimum qualifications required of an arborist when making an assessment on the health of a tree and its risk of failure.</p> <p>The Coroner's recommendations of a Level 4 or above arborist goes beyond the Level 3 definition within the Regulations. The reason for the Coroner's recommendation appears to be due to the fact that a ground-based assessment alone was not, in the Coroner's view, sufficient to determine the health and safety of a tree and an arborist who possesses only a Level 3 qualification and <i>"ground-based tree defect evaluations"</i> appears unlikely to be skilled in above-ground assessments, and therefore may not be able to properly identify structural defects in trees which are subject to an assessment under the Regulations.</p> <p>The definition of <i>"suitably qualified arborist"</i> in the proposed Regulations appears to be contradictory, in that a Level 3 qualification does not generally include a <i>"ground-based tree defect evaluation"</i> competency as part of the course. According to the State and Federal government website, <i>"Training.gov.au"</i>, the Certificate 3 in Arboriculture (code AHC30816) offers units of competency in maintenance and rigging of trees but does not appear to offer units of competency relating to the assessment of the health of trees.</p>



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			<p>The “<i>ground-based tree defect evaluation</i>”, as referred to in the definition of “<i>suitably qualified arborist</i>” in the Regulations, is listed on the “Training.gov.au” under unit code “AHCARB403”. This course is listed as a Level 4 course unit and does not appear to be available in the Level 3 course. It is however listed within Diploma of Arboriculture (AHC50516), which is the Level 5 qualification (<b>Diploma</b>), as well as the Certificate IV in Arboriculture (AHC41916), which is understood to be the Level 4 qualification which is no longer offered by training providers.</p> <p>Whilst the Regulations provide no further information on what encompasses the “<i>ground-based tree defect evaluation</i>” unit of competency, if it is the same as the unit “AHCARB403”, there appears to be a disconnect between the Certificate 3 qualification, and the inclusions of the “<i>ground-based tree defect evaluation</i>” competency, which is a Level 4 unit and not offered within the Level 3 course.</p> <p>Even in the event that a Level 3 qualification can include the “<i>ground-based tree defect evaluation</i>” unit of competency, these competencies may still not equip an arborist with sufficient skills to properly assess the risks of a tree failure, as evidenced by the incident in Bendigo. The “AHCARB403 - ground-based tree defect evaluation” is described as equipping the arborist with:</p> <p><i>“the skills and knowledge required to examine trees from the ground in order to evaluate the increased likelihood of failure of trees or tree parts.”</i></p> <p>The unit appears to equip an arborist with the skills to assess a tree from the ground for defects and indicators which may lead to structural failures, which should allow the arborist to evaluate any increased likelihood of failure of trees or tree parts. However, as</p>

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			<p>was seen in the Inquest, a ground-based assessment alone may not be enough to say with certainty that a tree is structurally sound and not at risk of failure.</p> <p>The effect of keeping the definition of a “<i>suitably qualified arborist</i>” in its current form within the Regulations may mean that a “<i>suitably qualified arborist</i>” is unable to make a proper assessment of the health of a tree and its risk of failure under clauses 4, 7 and 9 of the Regulations, via a ground-based assessment only. This could mean that the objectives of the Regulations are not able to be met, being to “<i>protect the health of trees that require cutting in accordance with the Code</i>”.</p> <p>The Inquest recommended that Council arborists, who also make assessment on the health and safety of trees, be qualified in a Level 5 Diploma of Arboriculture, which is taken to include above-ground assessments competencies. Given the similar roles and functions of “<i>suitably qualified arborists</i>” under the Regulations, and the inherent risk to the community of having underqualified arborists conduct assessments of Council assets, <u>the City of Greater Geelong does not support the proposed reduction in qualification levels. The Qualifications should remain the same or be increased to a Level 5 qualification.</u></p>
Exceptions to minimum clearance	Allows branches to be 150 mm from the line if the span is less than 40 m in length. It used to have to be 300 mm away from the line. The exception clause can only be used under increased tree management requirements designed to monitor or manage risk to acceptable level.	Schedule 1, Part 1, Regulation 4(c)	Supported with request that <u>the 12-month timeframe referenced in subclause (e) be extended to 14 months to enable management requirements to work in conjunction with annual inspection cycles.</u>
Exceptions to minimum clearance	New clause has been added introducing exceptions to minimum clearance distances for small branches growing under uninsulated low voltage electric lines. The exception clause can	Schedule 1, Part 1, Regulation 5A	Supported with request that <u>the 12-month timeframe referenced in subclause (e) be extended to 14 months to enable management requirements to work in conjunction with annual inspection cycles.</u>



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	only be used under increased tree management requirements designed to monitor/manage risk to acceptable level.		
Indigenous vegetation	Change the words 'specified significant tress' to include 'indigenous or significant trees'. The regulation aims to minimise the cutting or removal of indigenous or significant trees reflecting changes in definitions.	Schedule 1, Part 1, Regulation 10	Supported
Public notification	<p>Change the requirements so notifications can be published on the responsible person's website or published in a newspaper.</p> <p><u>Wording of new regulations</u></p> <p>A written notice published under subclause (2) must be published on the responsible person's Internet site or in a newspaper circulating generally in the locality of the land in which the tree is to be cut or removed.</p>	Schedule 1, Part 1, Regulation 16(3)	Supported
Dispute resolution requirement	This has been removed from the Code and is in the Regulations as a requirement to include detail of dispute resolution procedure in the plan rather than as a stand-alone procedure.		Supported.



**Appendix 2 Images of council owned trees pruned by distribution companies for powerline clearance**





