

31 October 2024

Consultation: Have Your Say on Work Health and Safety
Ministry of Business, Innovation and Employment (MBIE), Hikina Whakatutuki
PO Box 1473
Wellington 6140

Submitted by email to HSWHaveYourSay@mbie.govt.nz

To whom it may concern

Electricity Networks Aotearoa (ENA) appreciates the opportunity to submit on the *Have Your Say on Work Health and Safety* consultation document.

ENA is the industry membership body that represents the 27 electricity distribution businesses (EDBs) in New Zealand (see Appendix A) which provide local and regional electricity networks. EDBs employ 10,000 people, deliver energy to more than two million homes and businesses and have spent or invested \$8 billion in the last five years. ENA harnesses the collective expertise of members to promote safe, reliable and affordable power for our members' consumers.

EDBs operate within a high-risk sector, managing the operation of critical infrastructure that supports the day-to-day wellbeing of New Zealanders and is vital to the functioning of the economy. EDBs are therefore highly incentivised to have effective work health and safety systems in place, over and above any strict legislative requirements.

ENA supports the submissions made to this consultation by the Electricity Engineers' Association (EEA) and the Business Leaders' Health & Safety Forum and would like to supplement those with some further comments provided below.

Do not hesitate to get in touch with ENA if you'd like to discuss any of the points raised in our submission. Please contact Sophie Tulley (sophie@electricity.org.nz) in the first instance.

Yours sincerely,



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Electricity Networks Aotearoa is a trading name of the Electricity Networks Association.

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kiritaki.
mahi ngātahi.

climate.
customers.
collaboration.

Focus area one: businesses are best placed to understand and manage their risks

The actions EDBs need to take to comply with legislated health and safety obligations can at times exceed what a prudent and practical assessment of the risks at a specific site would require. EDBs frequently undertake upgrades or maintenance of their infrastructure (e.g., poles and wires) that are sited in the road corridor. EDBs have observed that the cost of the temporary traffic management (TTM) required by road controlling authorities when carrying out these works has become significant and, in our view, unreasonable and not proportionate to the risks present on site. ENA has recently commissioned an analysis of the actual cost to EDBs of carrying out works in the road corridor over the past five years. Early indications from this analysis show that the costs for TTM specifically have increased out of step with inflation and other metrics. ENA would be happy to share the outcomes of this study with you in due course.

The New Zealand Transport Agency (NZTA) Code of Practice for Temporary Traffic Management (CoPTTM) has among other things, led to excessive TTM measures, relative to the risks being mitigated in the road corridor. NZTA is now implementing a risk-based approach to TTM, shifting attention to better manage and mitigate risks as they exist at specific road work sites, rather than applying blanket prescriptive rules. ENA is optimistic that this change will alleviate the excessive cost of TTM implementation (if not immediately, then in the long term), and ultimately lead to better health and safety outcomes. We encourage the government to keep a close watch on the costs of TTM under this new model, as we will be, and be ready to intervene should it not deliver the desired outcomes.

EDBs are well-established, mature businesses and have significant experience in working with other businesses – such as their principal field service contractors - to manage health and safety risks in a collaborative way. However, there remains some ambiguity regarding the overlapping duties outlined in the HSWA that arise when multiple businesses share responsibility for the same worksite or project. Challenges may arise due to differing safety practices, resources, and financial priorities of the individual businesses involved.

EDBs' work often involves multiple contractors, subcontractors, and third parties working together, each with varied safety cultures and approaches to risk management. While all parties are required to cooperate and coordinate to ensure safety, the level of investment in safety equipment, training, and safe work practices can differ between parties. This is further complicated by the ambiguity of overlapping duties, where responsibility for health and safety is shared but not always clearly defined. Without clear delineation of roles and consistent commitment from all parties, workers become vulnerable in these high-risk environments, particularly if the obligations and liabilities for managing risk remain unclear. ENA understands that this is a complex issue, but we encourage the government to give it the attention needed to resolve these ambiguities.

Focus area two: the law is designed to balance flexibility and certainty

As mentioned in EEA's submission, the Electricity (Hazards from Trees) Regulations 2003 are of particular concern to EDBs and have been a textbook example of prescriptive, inflexible health and safety legislation that does not allow for tailored and practical approaches to risks arising at specific sites. We are encouraged by the review of these regulations that MBIE currently has underway, and ENA hopes this will result in a more flexible approach to implementing safety mitigation measures around electricity lines and vegetation.

Although EDBs are not responsible for ensuring compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34), there are significant cases of non-compliance arising daily, which is therefore a major concern for many in the sector. In rapidly urbanising areas, EDBs are seeing their assets increasingly encroached upon and often have to notify building owners and developers of non-compliance. This appears to be a clear regulatory failure, where no party is able or empowered to intervene to prevent non-compliance before it occurs. Once a non-compliance has arisen, this leads to significant costs for developers to fix, often involving moving overhead electricity lines (at the developer's expense) or redesigning or rebuilding elements of new structures. This problem stems from a persistent regulatory gap between the Electricity Act 1992 (NZECP 34 is a Code of Practice under the Electricity Act) and the compliance processes outlined in the Building Act 2004 and the Resource Management Act 1991, resulting in NZECP 34 being overlooked during the consenting process – the ideal time to identify potential non-compliance before it occurs. Resolution of this regulatory failure is urgently needed, and we are encouraged by the/ recent interest in this issue taken by the Minister for Building and Construction.

Focus area four: an effective work health and safety system needs effective regulators

ENA's interaction with WorkSafe is relatively limited, but EDBs recognise that there is a significant lack of resources within WorkSafe to support the industry adequately. Highly technical and specialised industries, such as the electricity supply industry, require knowledgeable and capable regulators to ensure that any interventions that are made (when needed) are judged appropriately to achieve the right outcomes. An inspector with general construction knowledge may not have the necessary competencies to understand and assess the health and safety risks arising in a complex electricity supply site. ENA encourages the government to consider how WorkSafe can be resourced to support specialised industries like ours in maintaining our high standards of health and safety performance.

Appendix A: ENA Members

Electricity Networks Aotearoa makes this submission along with the support of its members, listed below.

Alpine Energy

Aurora Energy

Buller Electricity

Centralines

Counties Energy

Electra

EA Networks

Firstlight Network

Horizon Energy Distribution

MainPower NZ

Marlborough Lines

Nelson Electricity

Network Tasman

Network Waitaki

Northpower

Orion New Zealand

Powerco

PowerNet

Scanpower

The Lines Company

Top Energy

Unison Networks

Vector

Waipa Networks

WEL Networks

Wellington Electricity Lines

Westpower