

16 April 2019

Mr Rob Faunt
Technical Regulator
GPO Box 320
Adelaide, South Australia 5001

By email: rob.faunt@sa.gov.au

Dear Rob

re: Submission on 10-year review of the Electricity (Principles of Vegetation Clearance) Regulations 2010

Introduction

This document has been prepared in preparation for the proposed review of the *Electricity (Principles of Vegetation Clearance) Regulations 2010 (SA) (Regulations)*, due to expire on 1 September 2021.

As you would be familiar, ElectraNet manages a network of more than 6,000 linear kilometres of high voltage transmission lines across South Australia, the majority of which are overhead lines. Given the significant impact of the Regulations on ElectraNet's operations and procedures, ElectraNet has prepared suggested amendments ahead of the review.

In preparing this submission, ElectraNet has taken into account the following factors:

- a) Public safety – ensuring the safety of the wider community by ensuring sufficient vegetation is cleared around powerlines, particularly during bushfire danger season;
- b) Workplace safety – ensuring all ElectraNet employees and contractors are provided with a safe working environment;
- c) Landowner engagement – creating and maintaining positive relationships with landowners;
- d) Environmental awareness – promoting a culture of sensitivity and responsibility for the environment;
- e) Efficiency – removing unnecessary red tape to promote efficiency across the system; and
- f) Cost – reducing costs where possible.

In addition to its own proposals, ElectraNet supports a number of the issues raised in the Final Discussion Paper on the Regulations prepared by SA Power Networks in December 2018.

Legislative Context

The duty to clear vegetation around powerlines arises under Part 5 of the *Electricity Act 1996* (SA) (**Electricity Act**). Pursuant to this overarching duty, electricity entities have a positive duty to clear vegetation in accordance with the 'principles of vegetation clearance'.

These principles are set out in the Regulations, which provide a comprehensive framework for vegetation clearance through the use of areas described as 'clearance zones' and 'buffer zones' around powerlines. The extent of vegetation clearance required varies depending on designation, procedural methodology, span length, voltage and whether the powerlines are located on public or private land. The vegetation clearance is to be undertaken through a three-year cyclic program.

Vegetation clearance is regulated by the Office of the Technical Regulator (**OTR**).

Discussion Paper by SA Power Networks

We have considered the points raised in the Final Discussion Paper on the Regulations prepared by SA Power Networks. While not engaged in the SA Power Networks consultation, we are broadly supportive of the proposals.

In particular, we strongly support the amendment of the Regulations to include the following suggestions made by SA Power Networks, set out in Table 1 below (extracted from Section 4 of the SA Power Networks Discussion Paper).

Table 1: Proposed Amendments by SA Power Networks supported by ElectraNet

Proposed Amendment	Description
Tree removals and replacement	<ul style="list-style-type: none"> Allow the removal of trees, including saplings (less than 5 years old) directly below the Clearance Zone
Customer notifications	<ul style="list-style-type: none"> Look at different forms of customer notifications Opt-in/opt-out approach for landowners
Swing and sag	<ul style="list-style-type: none"> Clearance zone being based on swing and sag of conductor applied to all powerlines Parameters to reduce side clearance requirements
Buffer Zone shape	<ul style="list-style-type: none"> Review the Buffer Zone shape/ clearance Allow pruning outside the Buffer Zone for collar cuts and crown reductions Develop parameters around pruning outside of the Buffer Zone, i.e. when can/ can't cut

We are happy to provide more information on any of the above proposed amendments if required.

Proposed Amendments

In addition to the proposed amendments suggested by SA Power Networks, we propose the following issues are addressed in the review of the Regulations.

Flexible clearance and buffer zones

As discussed above, the Regulations currently provide for stipulated 'clearance and buffer zones' to determine the extent of clearance around powerlines. Depending on a number of variables, the current clearance and buffer zones may or may not be adequate to address the fire risks which the vegetation clearance seeks to address.

We are not advocating a recalculation of the 'clearance and buffer zones', but experience has shown that for some line configurations, the defined 'clearance and buffer zones' are not optimal, highlighting the need for additional flexibility.

Schedule 1 clause 6 of the Regulations allows the OTR to determine alternative values for the clearance zone around powerlines in certain circumstances, where the line may swing or sag. Rather than seeking approval from the OTR for each span that ElectraNet believes requires additional clearance parameters, we recommend implementing a simple mechanism allowing electricity entities to seek approval of a scheme or methodology for determining alternative parameters on a needs basis.

This amendment would give electricity entities the scope to clear to alternative parameters in certain circumstances without recourse to the OTR in each case, and therefore reduce administrative costs and time. It would also enhance the safety of the regime.

Clearance outside the legislative duty

We have identified three particular instances where clearance of vegetation should be recognised in the Regulations as situations where clearance is permitted but not required. Two of these three instances are already contemplated in the Electricity Act, albeit outside of the duty to clear prescribed in section 55.

The incorporation of the following three situations would ensure the Regulations provide a complete overview of vegetation clearance and give electricity entities a clearer understanding of the parameters.

a) Clearance of hazardous vegetation

Section 55AA of the Electricity Act deals with the clearance of vegetation where the vegetation is likely to fall onto a powerline in a bushfire risk area, despite the vegetation being outside the clearance and buffer zones. This section was introduced to address the risks posed by limbs falling off diseased or dead trees, particularly in light of the Victorian bushfires (this might be described as 'ancillary clearance' to distinguish it from the mandated clearance which is described in the Regulations).

We are not suggesting an amendment to section 55AA, but rather that this ancillary clearance is specifically referenced in the Regulations as part of the clearance requirements contemplated by the Regulations, albeit clearly outside of the duty to clear.

b) Clearance around telecommunications infrastructure

Section 48A of the Electricity Act states that any powers or rights that an electricity entity has under the Electricity Act for the purposes of *'installing, operating and carrying out work relating to electricity infrastructure'* will also be taken to be exercisable for the purposes of:

- I. installing telecommunications cables or equipment by attaching it to or incorporating it in the electricity infrastructure of the land;
- II. operating and carrying out work relating to telecommunications cables or equipment so installed; and
- III. operating the electricity infrastructure on the land for telecommunications.

However, both the Electricity Act and the Regulations are silent on vegetation clearance surrounding telecommunications infrastructure. The duty to clear is limited to powerlines.

While there may be no bushfire risk associated with this infrastructure, clearance is required around telecommunications infrastructure for both operational and safety reasons. The communications equipment requires an uninterrupted 'line of sight' to operate effectively and safely. Vegetation that intrudes into that 'line of sight' will retard the operation of this infrastructure. While we are not suggesting that this clearance should be incorporated into the positive duty to clear vegetation, telecommunications infrastructure should be referenced in the Regulations to the necessary vegetation clearance program undertaken by ElectraNet.

This would also be consistent with the *Native Vegetation Regulations 2017 (SA) (Native Vegetation Regulations)*, which allow for clearance incidental to the repair or maintenance of 'infrastructure' (which explicitly includes infrastructure used for the provision of telecommunications). It should be noted, however, that the Native Vegetation Regulations only regulates clearance of native vegetation, whereas the Electricity Act and Regulations look at vegetation in general.

c) On-ground clearance

The Regulations currently do not provide for on-ground clearance of vegetation, where such clearance is ancillary to the legislative duty to clear around powerlines. In order to carry out this duty and concurrently maintain a safe environment, the Regulations should provide for an incidental on-ground clearance regime.

This would coincide with the safety precautions set out in Part 10 of the Electricity Act. In particular, section 60 prescribes that a person who owns or operates electricity infrastructure must take reasonable steps to ensure the infrastructure is safe and safely operated. ElectraNet needs to have safe work methods in place to ensure the safety of its employees and contractors. This includes ensuring that employees and contractors can safely access the infrastructure using their vehicles and equipment.

Although on-ground clearance is covered to an extent by the Native Vegetation Regulations, it should be recognised in the amended Regulations as a prerequisite to carrying out the duty.

Notifications

In addition to the proposed suggestions by SA Power Networks regarding customer notifications, we have identified three further suggestions to improve the notification regime under the Regulations.

a) Decreasing the notification period by agreement

We suggest altering the 30-day notice period in section 57 of the Electricity Act to allow for flexible arrangements where the landowner has agreed (i.e. along the lines of '30 days or as agreed between the parties'). ElectraNet's current practice is already to give occupiers the option to waive the notice period, but it would be mutually beneficial to incorporate this option into the Regulations.

This would allow some leeway for landowners who are not interested in the objection process, but rather want to know when someone will be on their land. This would in turn promote efficiency across the system.

This would be a practical change, particularly if new, faster methods of customer notifications are permitted (per SA Power Networks' suggestion).

b) Unknown occupiers

We also recommend a mechanism is introduced to deal with situations where the identity of the occupier of land is unknown. For example, if an electricity entity has conducted all reasonable enquiries to identify the occupier of a property, and that person cannot be identified, the entity should then serve an effective notice on the legal owner.

It is noted that these changes could either be addressed in the Regulations or may require an amendment to the Electricity Act.

c) Definition of emergency

Section 57(4) of the Electricity Act gives electricity or council officers the power to enter onto land at any time to carry out vegetation clearance work in the case of an emergency. This section essentially allows the clearing entity to bypass the usual notification requirements, but still prescribes clearance according to the Regulations.

As it currently stands, the definition and scope of emergency is somewhat unclear under the Act. There may be some benefit in having a specific regulation to define what constitutes an emergency.

In particular, the new Regulations could be used to extend the definition of emergency to cover urgent and unforeseen circumstances. If we become aware of vegetation posing an immediate safety risk and cannot wait 30 days to rectify the situation, we could bypass the usual notification requirements (as is permitted under section 57 for any other emergency). Whether the situation classifies as an emergency could be based on a rational self-assessment of the situation.

This would cover situations for example where ElectraNet becomes aware of a tree branch that has recently bent or fallen into the path of an electricity line and poses an immediate risk to safety.

Emergency situations

In addition to the suggested amendments in section 4.3(c) above, the Regulations could also be amended to provide some scope to go beyond the clearance and/or buffer zones in the case of an emergency. Depending on the emergency, there may not be time to measure the zones and therefore some leeway may be required to complete tasks quickly. This would coincide with the powers of the State Co-ordinator or authorised officers under section 25 of the *Emergency Management Act 2004 (SA)*.

We recommend incorporating clearance in emergency situations into the Regulations.

Summary

The additional amendments proposed by ElectraNet are summarised in Table 2 below.

Table 2: Amendments Proposed by ElectraNet

Proposed Amendment	Description
Flexible clearance zones	Flexibility to extend permitted clearance beyond the buffer zones in certain situations
Clearance outside the legislative duty	Incorporating clearance for purposes other than the prescribed duty to clear into the Regulations

Proposed Amendment	Description
Customer notifications	Decreasing the customer notification time period by agreement, dealing with unknown occupiers and expanding on the definition of emergencies
Emergency situations	Allowing some leeway for clearance boundaries in emergency situations

Related Matters

ElectraNet and TransGrid are jointly proposing to construct a 330kV interconnector between Robertstown in South Australia and Wagga Wagga in New South Wales.

A review of the Electricity (General) Regulations 2012 and the Electricity (Principles of Vegetation Clearance) Regulations 2010 has identified that 330kV transmission infrastructure is not adequately recognised in the Regulations. We would appreciate the opportunity to discuss a way forward on these matters in the near future.

We are happy to provide further advice on any of the above suggestions as required. Please contact Bill Jackson on 8404 7969 for further information on this submission.

Yours sincerely



Rainer Korte
Group Executive Asset Management