

SUBMISSION



SUBMISSION ON THE

Energy Innovation (Electric Vehicles and Other Matters) Amendment Bill

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Introduction

Thank you for the opportunity to submit on the Energy Innovation (Electric Vehicles and Other Matters) Amendment Bill. The Road Controlling Authorities Forum (New Zealand) Incorporated (RCA Forum) held initial conference and coordination with the regional government Transport Special Interest Group (TSIG) and Local Government New Zealand in preparation for comment on this Bill. Further, the RCA Forum has resourced Auckland Transport and various regional council communication and draft submittals in the preparation of this submission.

The parts of the Bill of particular interest to the RCA Forum include **Part 1**, **Part 3** and **Part 4**. While generally supportive of the amendments proposed by the Bill, we retain concerns around the effect and potential unintended consequences of **clauses 7, 17, 19** and **20**. In this submission we provide comment on these clauses in particular.

Who we are: RCA Forum

The Road Controlling Authorities Forum (New Zealand) Incorporated is a closed, non-political incorporated society of road asset managers and roading professionals from the New Zealand Transport Agency, the Department of Conservation and all territorial local authorities (except the Chatham Islands Council). It was established in 1996 by Transit New Zealand and representatives from territorial local authorities, the Department of Conservation, Land Transport New Zealand and Local Government New Zealand to address common issues relating to road assets.

The RCA Forum's vision is to assist road-controlling authorities to make informed decisions. It supports sector working groups on common issues and meets to exchange information and provide updates on sector activities, proposed legislation, new standards and guidelines, highway and procurement strategies and other issues relevant to the other member organisations.

If the Select Committee considers it necessary, we would be happy to appear to answer follow-up inquiries.

Part 1 Amendments to Electricity Industry Act 2010

The RCA Forum is generally supportive of the amendments proposed to sections 128, 129 and 129A of the Electricity Industry Act (EIA) by clauses 4, 5 and 6. We confine our submission to clause 7.

Clause 7: Subpart 2A—Secondary networks

Clause 7 inserts new subpart 2A in Part 5. New section 131A applies electricity industry legislation and the Electricity Industry Participation Code to secondary network providers as if those secondary network providers were distributors.

We understand that this is to clarify that the Act, and the regulations and Code made under the Act, apply to secondary network providers where the services provided are akin to those of an electricity distributor. Clause 7 ensures the legislation provides certainty to the industry regulator (the Electricity Authority) that the services provided on secondary distribution networks are within its scope. It will also improve market and consumer outcomes, by ensuring that consumers on secondary distribution networks have the same access to dispute resolution as consumers on local electricity networks.

We note that secondary networks are described as electricity networks that are indirectly connected to the national grid. Examples cited include networks in some multi-tenanted office blocks, residential

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apartment buildings, retirement villages, shopping centres, airports, industrial or commercial parks, and residential subdivisions.

In each example cited, the network is a secondary distribution network to subsidiary consumers. The services provided are akin to those of an electricity distributor and it is appropriate that the Act, and the regulations and Code made under the Act, should apply.

To define every secondary network as a distributor would include non-distributing networks, however. The traction network of any electrified rail line or any future light-rail line and any future induction charging network set within the road corridor for electric vehicles, for example, could be captured by this imprecise definition.

Including the rail traction network in the definition of a secondary network would increase compliance costs with little benefit, as much of the compliance regime is not relevant. Including any induction charging network in the definition of a secondary network would almost certainly inhibit the adoption of innovative technical solutions using such a network.

We submit that the intent of clause 7 is the application of the electricity industry compliance regime to secondary *distribution* networks and the clause should be amended to say so, and to exclude any network where the services provided are not akin to those of an electricity distributor.

Potential consequential effect

Clause 7 has possible indirect consequences in terms of the interpretation of “works” under the EA that are unintended. Those consequences would be serious to road controlling authorities in terms of section 24 and rights of access to the road corridor. The Bill should be amended to expressly state that for the avoidance of doubt nothing in clause 7 or new section 131A of the EIA affects the Electricity Act.

We understand from the Regulatory Impact Statement (RIS) that the source of the ambiguity as to whether secondary network providers are distributors is the definition of “works” and “electrical installations” in the Electricity Act (EA). This is the same ambiguity that arises in relation to whether an electric vehicle charging station is a “work” or an “installation”.

Although clause 7 does not expressly affect the EA, there is a risk that it does so indirectly. The argument would be that as this new section 131A of the EIA has treated secondary network operators as distributors, implicitly those secondary networks must be “works” (rather than “installations”), and this is the case for the purposes of the EA as well. On this approach, an operator would have a *prima facie* right to install such secondary network equipment in roads without reference to the road controlling authority.

According to the RIS, however, it is not intended that the EIA amendments will affect the EA. The RIS states that an option considered was to amend the EA in order to make all secondary networks “works”, but this was rejected because of a high risk of unintended consequences. The RIS noted that it is important to ensure that changes in definitions to address one issue do not alter how these definitions apply for other legislative purposes.

Part 2 Amendments to Energy (Fuels, Levies, and References) Act 1989

The RCA Forum generally supports the amendments within Part 2 and has no submission to make on Clauses 9 to 15.





Part 3 Amendment to the Land Transport Act 1998

The RCA Forum submits that the proposed amendment to section 22AB(1)(r) of the Land Transport Act 1998 is neither necessary nor sufficiently considered in terms of its potential consequences on the delivery of a safe and efficient transport system.

Section 22AB amended (Road controlling authorities may make certain bylaws)

Clause 17 amends section 22AB(1) to clarify that the power to make bylaws can be used in respect of any vehicle of a specified class (which may include electric vehicles).

We understand the intent of clause 17 is to clarify that a road controlling authority may use its by-law-making powers to give electric vehicles access to special vehicle lanes. Further changes to give full effect to this policy will need to be made to the Land Transport (Road User) Rule 2004 and the Land Transport Rule: Traffic Control Devices 2004. These changes include adding a definition of electric vehicles, altering bus and transit lane definitions to include electric vehicles as permitted users if RCAs make relevant bylaws, and requiring road signage or marking showing when such vehicles may use such lanes.

At present section 22AB(1) provides that a road controlling authority may make any bylaw that it thinks fit for one or more purposes that include prescribing, subject to the marking of lanes on the roadway, that on any road any traffic lane may be used or any turning movement may be made only by buses, taxis, or vehicles of other specified classes or vehicles carrying specified classes of loads or no fewer than a specified number of occupants.

The power to make bylaws to give electric vehicles access to special vehicle lanes is already fully available. Clause 17 does not clarify this in any way. Deletion of the words “bus” and “taxi” from section 22AB(1)(r) does not clarify the uses to which the by-law-making powers may be put in relation to electric vehicles.

When using its bylaw-making powers, a road controlling authority can balance other transport objectives when deciding which special vehicle lanes to allow vehicles access to in order to deliver the maximum level of total benefit.

Measures to encourage the uptake of electric vehicles should not have a negative impact on the reliability or efficiency of public transport services. Allowing an unknown and increasing number of electric and plug-in

hybrid vehicles into special vehicle lanes could cause significant delays to services, undermining the efficiency of public transport.

Bus lanes are a key part of enabling a high quality, reliable public transport network moving large numbers of people at peak times (with associated de-congestion benefits) along corridors where the transport network is in high demand and capacity is an issue. Key bus lanes in urban centres already have high volumes of buses during peak times, when electric vehicle drivers are most likely to want to use them.

Given the stop-start operation of bus services these lanes already suffer congestion at key points. Additionally this measure may not result in significant travel time savings or be an effective incentive for electric vehicle drivers as they will frequently need to merge back into general traffic flows when buses stop along the length of bus lanes.

Some bus lanes already allow motorcyclists, cyclists and taxis; allowing electric vehicles to use the lanes will reduce the benefit to these existing users of bus lanes and have negative safety impacts as

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increased traffic mixes in narrow lanes. As electric vehicles are generally quiet, the risk to cyclists in particular will increase; this goes against moves to increase the safety and attractiveness of cycling as a low emission mode.

It would also be challenging to enforce the use of bus lanes by electric and hybrid vehicles. At present these are difficult to distinguish from petrol or diesel vehicles from a distance, and it may cause confusion among other drivers about the purpose of bus lanes. Without adequate enforcement the benefits of bus lanes could be lost.

Allowing electric vehicles into bus lanes also has the potential to increase road congestion and vehicle emissions by creating additional space in the lanes currently being occupied by those electric vehicles for other vehicles to occupy, leading to a net increase in vehicles on the road.

We have concerns with the principle underlying this measure, of supporting the uptake of one form of private transport instead of another through a direct imposition on public transport, rather than through the imposition of different charging regimes, registration charges or similar on the less favoured form of private transport.

We believe most road controlling authorities do not currently intend to allow electric vehicles in special vehicle lanes, but will seek to encourage these as part of an integrated sustainable transport system through alternatives such as prioritising parking and infrastructure for electric vehicles in new developments, parking buildings and park and ride sites.

Part 4 Amendments to Road User Charges Act 2012

Generally, the RCA Forum supports measures to create incentives for the uptake of heavy electric vehicles, but we retain concerns over the practical application and effect of the measures proposed by these amendments.

Exemption of heavy electric RUC vehicles by Order in Council.

Clause 19 inserts a definition of heavy electric RUC vehicle into section 5(1). *Clause 19* also consequentially amends the definition of exempt vehicle. *Clause 20* inserts *new section 37A*, which contains an order-making power relating to the exemption of heavy electric RUC vehicles from road user charges.

The amendments to the Road User Charges Act 2012 enable heavy EVs to be exempted from road user charges (RUC), which is an extension of the current RUC exemption for light EVs. Extending the RUC exemption to heavy EVs is a transparent and efficient way to provide a financial incentive to encourage heavy EVs over equivalent conventional heavy vehicles. We understand the intention is that the RUC exemption for heavy EVs should be in place until they comprise 2% of the heavy vehicle fleet.

We have concerns about the practical application of this threshold. Having the 2% target determining how long the RUC exemption remains in force is likely to be a disincentive to uptake after an initial rush. Major fleet

operators would need greater certainty about RUC costs and how long the RUC exemption for heavy electric vehicles will remain in place.

The definition of a heavy electric vehicle needs to be amended to include plug-in hybrid vehicles that meet a particular CO₂ emissions standard or age limit, in order to ensure benefits are being provided only to those vehicles making a genuine emission reduction.

We submit that the RUC exemption for heavy vehicles should be applied for a specified time period, rather than being contingent on achievement of a target. Allowing for a higher percentage of the heavy

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vehicle fleet before RUC apply to electric heavy vehicles would provide a greater incentive. A package of other measures to encourage uptake of heavy electric vehicles should also be considered. Keeping a separate class for registration purposes for heavy electric vehicles for a specific period (possibly ten to fifteen years) is one example.



Thank you again for the opportunity to comment on the Energy Innovation (Electric Vehicles and Other Matters) Amendment Bill.

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