



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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ENERGY INNOVATION (ELECTRIC VEHICLES AND OTHER MATTERS) AMENDMENT BILL

Officials' Report to Commerce Select Committee

16 March 2017

Energy Markets Policy

Energy and Resource Markets Branch

Ministry of Business, Innovation and Employment

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New Zealand

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1. This is the officials' report on the *Energy Innovation (Electric Vehicles and Other Matters) Amendment Bill* (the Bill). It is in two parts:
2. Part A discusses the main issues comprising:
 - Issues raised in response to the changes to energy levies for use by the Energy Efficiency and Conservation Authority (EECA), including changes to improve the operation and administration of those levies, which in summary are:
 - whether it is appropriate to levy fund EECA's activities
 - the need for more accountability and transparency requirements, and
 - issues around the collection of the gas levy under section 23 of the *Energy (Fuels, Levies, and References) Act 1989*.
 - Issues raised in response to changes to implement measures to encourage the uptake of electric vehicles (EVs), which in summary are:
 - that allowing EVs into special vehicle lanes would have an adverse impact on public transport
 - that if EVs were allowed into special vehicle lanes, it would be difficult to enforce against misuse
 - that the two per cent cap for the proposed new exemption for heavy EVs from road user charges (RUC) is too low and does not provide sufficient certainty, and
 - concern that the proposed definition of a heavy electric RUC vehicle is too narrow and open to abuse.
 - Issues raised in response to the changes to clarify how electricity industry legislation applies to secondary networks, which in summary are:
 - concerns about unintended consequences in terms of the application, and
 - the interaction with the *Electricity Act 1992*.
 - Other issues raised, which in summary are:
 - concern that there are no provisions relating to the status of EV chargers under the *Electricity Act*, and
 - the need for a wider review of electricity industry legislation.
3. Part B is a clause-by-clause analysis of submissions and changes recommended by officials in response.
4. The Bill was introduced to the House on 27 October 2016 and referred to the Commerce Committee after its first reading on 8 November 2016. The Committee received 40 written submissions, and 11 oral submissions. A table of submitters is included in Part B of this report. In summary, in the responses:
 - 15 submissions (37.5 per cent) supported the Bill without proposing any significant changes (8

had minor suggestions).

- Nine submitters (22.5 per cent) supported the Bill if significant amendments were made – six suggested changes to the secondary network amendment, two to the energy levy amendments, two to the new RUC exemption power, two to the special vehicle lanes amendment, and one suggested the addition of further clauses relating to EVs.
- 16 submitters (40 per cent) either only indicated support or opposition to particular parts of the Bill (summarised below), or had no clear position (eight submitters).
 - In terms of opposition, one did not support the energy levy changes, one did not support the measures to encourage the uptake of EVs, one did not support the new RUC exemption power, and four did not support the special vehicle lane amendment.
 - In terms of support, one supported the special vehicle lane amendments, and one (who opposed the special vehicle lane amendment) supported the new RUC exemption power.

5. Of the 40 submissions, 14 were from associations or advocacy groups, 11 were from individuals, eight were from businesses, four were from other interested parties, and three from local government/road controlling authorities.

6. The 14 associations or advocacy groups consisted of:

- five associations or groups from the energy industry (Electricity Engineers Association, Electricity Networks Association, Electricity Retailers Association of NZ, Major Electricity Users Group and Major Gas Users Group)
- five associations representing vehicle users and suppliers (Automobile Association, Bus and Coach Association, Motor Industry Association, Motor Trade Association and NZ Caravan Association)
- two bodies representing local government and/or road controlling authorities (Local Government NZ, and the Road Controlling Authorities Forum)
- BusinessNZ, and
- Te Rūnanga – the statutory representative tribal body of Ngāi Tahu Whānui.

7. Of the eight businesses, three were electricity generator-retailers, and there was one of each of the following: electricity retailer, electricity distributor/EV charger provider, liquid fuel (petrol/diesel) retailer, EV charger provider, and a low emissions vehicle developer.

8. The local government/road controlling authority bodies were from Auckland, Waikato, and Wellington.

9. The other interested parties were: Auckland Regional Public Health Service (ARPHS), Flip the Fleet, Nelson Transport Strategy Group (Nelsust), and Utilities Disputes (the approved electricity and gas dispute resolution scheme).

10. The Regulations Review Committee (RRC) recommended that the Commerce Committee consider amending the Bill in relation to the levy regulation-making powers and the new Road User Charges (RUC) exemption power.

11. Officials provided advice on the recommendations for the Commerce Committee's consideration on 9 March. Some amendments in response to the third RRC recommendation have been included in this departmental report.

Recommendations

Part A recommendations

12. Officials are recommending the following changes to the Bill in relation to issues discussed in Part A:
13. To improve a road controlling authority's ability to enforce the correct use of special vehicle lanes, officials recommend:
 - amending section 145 of the *Land Transport Act 1998* to permit an image taken by approved vehicle surveillance equipment to be evidence of the unauthorised use of a special vehicle lane.
14. The recommendation we make in response to the RRC's letter is as follows:
 - The following criterion be added in relation to the regulation-making powers in proposed section 37A:
 - A regulation can only be made for the purpose of encouraging and supporting the uptake of EVs.
 - The initial RUC exemption should expire no later than the date agreed by Cabinet of 31 December 2025, and any subsequent exemption should have an expiry date of no more than five years.

Part B recommendations

15. We recommend changes to the Bill in Part B as follows:

Departmental submissions

- Item 354 – permit an image taken by approved vehicle surveillance equipment to be evidence of the unauthorised use of a special vehicle lane

In response to other submissions

- Item 133 – recommend that some amendments are considered to clause 7 to clarify that it is not intended to apply to a typical household landlord.

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Part A: Main issues

16. Part A addresses the following:

- Energy levies – issues raised in response to the changes to energy levies for use by the Energy Efficiency and Conservation Authority (EECA), including changes to improve the operation and administration of those levies.
- EV measures – issues raised in response to changes to implement measures to encourage the uptake of EVs, and responses to specific questions the Commerce Committee had.
- Secondary networks – issues raised in response to the changes to clarify how electricity industry legislation applies to secondary networks.
- Other issues raised.
- Regulations Review Committee advice.

Energy levies (clauses 3-6 and 8-15)

17. The changes to energy levies implemented by the Bill are:

- amending the purpose of three energy levies to enable EECA to use funding from the levies for activities it undertakes to meet its statutory function¹, which is to encourage, promote, and support energy efficiency, energy conservation, and the use of renewable sources of energy
- adding a new annual consultation requirement to the use of the gas levy and the petroleum and energy fuel monitoring levy (PEFML) under the *Energy (Fuels, Levies, and References) Act* that mirrors the existing requirement for the use of the electricity industry levy under the *Electricity Industry Act 2010*, and
- improving the operation and administration of the three levies.

18. The main issues raised in relation to the changes to energy levies are below:

Whether it is appropriate to levy fund EECA's activities

19. Four submitters were principally opposed to the use of levies to fund EECA's activities. The submitters were: BusinessNZ, the Major Electricity Users Group (MEUG), the Major Gas Users Group (MGUG), and the Motor Industry Association (MIA). The Electricity Retailers Association of NZ (ERANZ) noted that it had taken a pragmatic approach to supporting the levy changes, but that it agreed with BusinessNZ in principle.
20. Submitters arguing this point noted their preference for funding of public-good type services delivered by EECA to come from general taxation, which they argued has the following benefits:
- All taxpayers contributing and signals the strategic priority of the expenditure.
 - Highly cost effective as uses existing tax collection.
 - Relatively stable and predictable in comparison to a levy.
 - Funding decisions would be subject to Treasury scrutiny, increasing EECA's accountability and efficiency.

¹ Under the *Energy Efficiency and Conservation Act 2000*

21. BusinessNZ also commented that the proposed funding arrangements fail to comply with government best practice funding policy guidelines (notably The Treasury's), as well as take account of some of the best practice coming out of the Australian Productivity Commission.
22. All four submitters argue that EECA's activities were defined as public goods because they are carried out to protect the wider public interest – the benefit is to all New Zealanders, not just selective (private) groups or particular sectors of the economy. Further, if they were not public good activities, then they must provide private benefits, and should therefore be funded through charges (for example, on a on a fee-for-service basis).
23. The submitters want most of EECA's costs to be met by general taxation.

Officials' comment

24. Services delivered by Crown entities range from being purely for private benefit (i.e. licensing) where a charge (fee) is more appropriate, to full public benefit where general taxation is more appropriate.
25. In between are activities that can be appropriately funded by levies on a defined group of users. The Treasury's guidelines on public sector charging recognise that there is a spectrum of activities (noting that pure public-goods are rare), describe the characteristics of each, and then focus on guidance for the setting charges for services (not on levy design).
26. Under the funding arrangement implemented by this Bill, EECA will still receive funding from general taxation (currently just over half of total funding), with the remainder coming from the three energy levies. The total amount recovered by levies (currently up to \$17.5m²) can only be increased through the annual Budget process, which is subject to scrutiny by Treasury.
27. EECA can undertake a range of activities to meet its statutory function, set out in the Energy Efficiency and Conservation Act 2000, to encourage, promote, and support energy efficiency, energy conservation, and the use of renewable sources of energy.
28. Levy funded activities will not necessarily involve subsidies or incentives (which can result in private benefit). The Bill requires EECA to consult annually with levy payers on the use of levy funding for activities on its work programme. EECA will then report to the Minister of Energy and Resources on that consultation, which will include advice on the proportions of each levy it proposes to use.
29. The expectation is that use of a particular levy for an activity will be justified by EECA clearly articulating in its consultation the link between those groups being levied and whether they are either the beneficiaries, or the 'causers' of the need for the activity.

The need for more accountability and transparency requirements

30. A group of submitters (six in total) are concerned that there are not enough requirements in relation to accountability and transparency placed on EECA's use of levy funds.
31. The Electricity Engineers' Association (EEA) and Trustpower are concerned that the changes do not provide enough protection against EECA using levy funding for costs outside its mandate (including unrelated administration costs). Both suggested additional wording to the relevant clauses.
32. BusinessNZ, MEUG, MIA and Trustpower all want specific requirements added to the annual consultation requirement to address concerns about:

² To date EECA has only ever consulted on and drawn down \$13m annually to fund its electricity efficiency work programme.

- cross-subsidisation of activities between levy payers (i.e. using levy money for activities irrelevant to the levy payers or activities that have private benefit.)
- under and over recovery of levy funding across years
- the need for more detailed reporting on outcomes achieved (or not), and
- the need to identify parties that receive payments from a levy funded activity.

Officials' comment

33. EECA is already subject to the public sector framework for accountability and transparency, including regarding the release of information (e.g. the *Official Information Act 1982*).
34. All of the costs that EECA incurs must relate to its mandate, which is its statutory function. This requirement is set out in the annual Estimates of Appropriations (which outlines expenses and capital expenditure the Government plans to incur).
35. As a Crown entity, EECA has statutory obligations to account for any differences between the planned and actual delivery of outputs. For example, EECA must set out its outputs in an annual Statement of Performance Expectations (SPE), which is then reported on quarterly to the Minister of Energy and Resources, and in its Annual Report.
36. Officials are of the view that these current reporting obligations, along with the additional expectation set out by Cabinet regarding EECA's levy consultation, are adequate to ensure accountability and transparency. Cabinet has agreed that EECA's annual consultation will include:
 - the programmes it intends to initiate or continue from previous years
 - who it intends to target with these programmes, and the outcomes they propose to achieve through those programmes
 - the link between those groups being levied and whether they are either the beneficiaries, or the 'causers' of the need for the programme, and
 - the total levy funding proposed and the proposed proportion of that funding that will come from each of the three fuel types.
37. Once it has consulted, EECA will make a recommendation to the Minister of Energy and Resources, who will then make final decisions on the levy funding (with any changes to the overall amount of levy funding subject to the Budget process). EECA must also report on and publish its work programme annually, including how levy funding was allocated.
38. This consultation approach provides transparency in terms of any potential cross-subsidisation because EECA will have to demonstrate a logical link between its specific programmes and the levy or levies it proposes to fund them with.
39. Officials are of the view that the above expectations, the legislative requirement for EECA to consult and present the Minister with feedback, and expectations from levy payers and other interested parties will provide enough assurance that cross-subsidisation will be minimal and/or unintentional. The changes were designed to enable the relative contributions of each of the three levies to "broadly align" with EECA's work programme, not to have to apply a strict legal test to the use of a particular levy. The design aims to minimise administrative complexity and cost.
40. Further, officials consider that providing too much prescription in the legislation will not allow consultation processes to evolve over time to remain effective and meaningful.

41. Any under or over recovery of levy funding will need to be reported by EECA each year to enable the levy rate for the following year to be set correctly. At minimum, it will be reported in the Estimates of Appropriations each year.

Problems with the gas levy

42. One submitter, MGUG (which represents large gas users that use 15 per cent of gas supplied in New Zealand), raised existing problems with the gas levy that is included in the energy levy changes.
43. MGUG identified that the gas levy is not being shown in many members' invoices from suppliers as it should be. This could be resulting in underpayment of the gas levy.

Officials' comment

44. Officials have begun investigating this issue, which results from practical issues for levy payers in accurately applying the requirements of the legislation. In particular, there appear to be information barriers and some ambiguity about who is liable to pay the levy in more complex supply chain situations.
45. Officials plan to make a later recommendation to the Commerce Committee on amendments to the Bill to mitigate this issue. The Bill may exacerbate the existing situation because of the potential for the amount needed to be recovered by the levy to increase.
46. It is anticipated that the recommended amendment will be within the scope of this Bill as it will improve the operation and administration of the gas levy.
47. Officials anticipate being able to give a final recommendation to the Committee in late March 2017.

EV measures (clauses 16-20)

48. The EV measures implemented by the Bill are:

- Special vehicle lanes – clarifying that a road controlling authority (RCA) may use its bylaw-making powers to give EVs access to special vehicle lanes. EVs in this context are vehicles which are powered solely by electric batteries, as well as plug-in-hybrid vehicles that operate on a combination of externally charged batteries and a petrol or diesel motor.
- New road user charges (RUC) exemption power – enable heavy EVs (such as plug-in electric buses) to be exempted from RUC, which is an extension of the current RUC exemption for light EVs. It does this by adding a definition of heavy electric RUC vehicles, and a power for the Governor General, by Order in Council, to specify a period during which RUC are not payable in respect of a heavy electric RUC vehicle.

49. The main issues raised in relation to the EV measures are below:

Allowing EVs into special vehicle lanes would have an adverse impact on public transport

50. A number of submitters (particularly the Road Controlling Authorities (RCA) Forum, and following road controlling authorities: Auckland Transport, Greater Wellington Regional Council, and Waikato Regional Council), stressed the negative effects of allowing EVs access to special vehicle lanes on the ability to deliver public transport services. Examples included that EVs could create congestion and inefficiencies.
51. Submitters such as the Bus and Coach Association reflected that the purpose of special vehicle lanes is primarily congestion reduction and that this initiative not only does not achieve this but would also reduce the benefits to EV owners due to lane congestion.

52. Submitters were also concerned that, in the future when there are a large number of EVs on the roads, bus lanes will become extremely congested and public transport will be adversely affected.

Officials' comment

53. There are some bus lanes where the inclusion of EVs would be likely to negatively affect public transport and other transport initiatives. However, the initiative allows for an opt-in approach where an RCA, when using its bylaw-making powers, can balance other transport objectives when deciding which special vehicle lanes to allow EVs access to in order to deliver the maximum level of total benefit. An RCA can therefore allow EVs into special vehicle lanes where (or when) the impact on public transport priorities is below whatever threshold it considers appropriate.

54. In addition, an RCA can phase this initiative out through its bylaw making process if and when it believes that it is having a detrimental effect on its transport priorities (such as public transport).

If EVs were allowed into special vehicle lanes, it would be difficult to enforce against misuse

55. A number of submitters, including the AA, Auckland Transport, Greater Wellington Regional Council, Waikato Regional Council and two private individuals, felt that this particular initiative would be hard to enforce due to the difficulty of distinguishing between EVs and non-EVs. Some believe that this may cause network/lane confusion with other road users who are not permitted in these lanes, which will add to congestion and may have negative effects on safety.

Officials' comment

56. The Motor Vehicle Register (MVR) will show whether the vehicle is an EV or not. The eligibility of any vehicle to use a special vehicle lane can be determined by accessing information about it on the MVR using its number plate. The MVR also shows the owner of the vehicle, enabling an infringement notice to be sent to them if necessary.

57. Officials recommend that an RCA's ability to enforce the correct use of these lanes be improved by amending section 145 of the Land Transport Act to permit an image taken by approved vehicle surveillance equipment to be evidence of the unauthorised use of a special vehicle lane.

58. Confusion as to entitlement to use special vehicle lanes is intended to be addressed by clear signage required by new Land Transport Rules (the Rules). The proposal is that the rule change (currently under development) will require an RCA to:

- erect signage displaying what kind of vehicle is allowed access to the respective lane
- at the start of the special vehicle lane, and after each intersection along its length, mark on the road surface a white symbol defining the class or classes of vehicle for which the lane has been reserved.

The two per cent cap for the proposed new exemption for heavy EVs from RUC is too low and does not provide sufficient certainty

59. Submitters, including the Greater Wellington Regional Council, the Road Controlling Authorities Forum (RCA Forum) and the Bus and Coach Association, raised concerns that the intention that the RUC exemption for heavy EVs would be in place until they comprise two per cent of the heavy vehicle fleet would provide insufficient confidence and certainty for the industry to be able to invest in EVs. They noted that this could undermine the aim of promoting EV uptake. Those submitters also advocated for a higher target.

Officials' comment

60. The Government chose a two per cent threshold as an appropriate balance between providing an incentive to early adopters and the overall expectation from a fairness and equity perspective that road users pay for the roads.

61. The current heavy vehicle fleet is approximately 147,000 vehicles, and two per cent would be approximately 2,900 vehicles. It is uncertain when this threshold will be reached, so the initial exemption is proposed to be set to expire on 31 December 2025 (as agreed by Cabinet). A review of the appropriateness of this expiry date is planned in 2019 (along with a review of the date of the RUC exemption for light EVs).

The proposed definition of a heavy electric RUC vehicle is too narrow and open to abuse

62. Submitters, including Auckland Transport, the RCA Forum and Z Energy, raised concerns that inclusion of "motive power wholly or partly derived from an external source of electricity" the proposed definition of a heavy electric RUC vehicle means it would be open to:

- vehicles with limited electric capacity
- abuse from vehicles modified solely to gain the exemption, rather than using electricity, and
- vehicles that offered lower emission reduction benefits compare to other options.

Officials' comment

63. Officials consider that encouraging the uptake of vehicles with even limited electric capacity aligns with the overall objective of transitioning New Zealand's fleet to a new form of transport technology powered by renewable electricity.

64. The New Zealand Transport Agency (NZTA) must certify and register new or modified vehicles as meeting the requirements. We do not consider that there will be significant scope for individuals to falsify or imitate this capability.

Other high level issues

65. The following high level issues were also raised.

- EVs in special vehicle lanes could be unsafe for cyclists and discourage the use of this mode as cyclists are often allowed access to these lanes.

Response: As described earlier, RCAs will have the ability to choose on a lane-by-lane basis whether to allow use by EVs or not. They can therefore balance other transport objectives.

- EVs in special vehicle lanes could be unsafe for pedestrians because EVs do not emit much noise.

Response: This situation has existed for more than 10 years with conventional hybrids (many of which are taxis). However, many EVs generate an artificial sound as a pedestrian safety measure.

- The proposals in the Bill should be replaced with financial incentives.

Response: Financial incentives such as subsidies were considered by the Government at the time the EVs Programme was being developed. In general, they were considered unlikely to be the most efficient or desirable way to encourage the uptake of EVs.

Response to questions from the Committee

Use of special vehicle lanes by EVs in Norway

66. Norway has the highest level of EV uptake of any market, with approximately five per cent of its fleet being EVs, and EVs making up 37.5 per cent of new vehicle sales in January 2017.
67. In 2005, pure EVs were granted access to all bus lanes. In 2015, when EV market share was around two per cent, EV access to bus lanes was limited due to congestion arising in some lanes. EVs can only use lanes which are heavily congested during peak periods if they have two or more occupants. Some other bus lanes exclude EVs entirely.

Do RUC disincentivise electric buses?

68. The Bus and Coach Association noted that an electric bus was heavier than an equivalent diesel bus, and so would pay more RUC. The Committee asked officials to consider whether this meant that RUC was a disincentive to the uptake of electric buses.
69. As noted above, RUC is designed on the basis that road users pay for the roads, and heavier vehicles cause greater road wear. A vehicle which is heavier than another may pay a greater amount of RUC, depending on whether that difference and the number of axles is sufficient for it to fall into a higher RUC class.
70. However, RUC is only one of the costs faced by a bus operator. Electric buses are expected to have lower running costs, as the fuel costs are lower and maintenance costs will be reduced. A study in the United States estimated that an electric bus would have a lower total cost over 12 years than a diesel bus, although this is in an environment where road user pricing does not exist and diesel is approximately 30 per cent cheaper than in New Zealand (although electricity prices appear to be broadly similar).
71. We also note that some other New Zealand fleet operators have made the commitment to convert their heavy EVs to electric power, notwithstanding the potential increase in RUC they could face.

Secondary networks (clause 7)

72. The Bill makes changes to clarify how electricity industry regulation applies to secondary networks. It does this by adding new definitions of “secondary network” and “secondary network provider”, and a statement that a secondary network provider is to be treated as if they were a distributor for the purposes of the *Electricity Industry Act*.
73. The main issues raised in relation to the secondary networks changes are as follows:

Concerns about unintended consequences – coverage

74. A few submitters were concerned that the new definition of a secondary network provider is too broad, or that it inadvertently includes things it should not. Specifically:
- ChargeNet submits that this change could see EV infrastructure defined as a secondary network and subject to a regulatory regime designed for distributors, which in its view is not appropriate.
 - Greater Wellington Regional Council, while supportive of intent, submits that the Wellington rail traction electricity network (owned by KiwiRail) and future technology such as induction charging embedded in roadways should not be treated like/included as secondary networks. Waikato Regional Council supported this view.

- The RCA Forum made a similar submission, noting that the proposed definition would include “non-distributing networks”, such as the traction network of any electrified rail line or any future light-rail line or induction charging network for EVs set within the road corridor.
 - Trustpower was concerned at the inclusion of “customer networks” in the definition. Customer networks are a form of secondary network where the owner manages the network supplying a number of consumers at a single location, providing the consumers with network services and certain retail products and services.
 - Utilities Disputes welcomed the intention to clarify the status of secondary networks, but submitted that the proposed definition is broad and is not clear what services are “similar to the services provided by a distributor”, which could lead to disputes about who meets it.
75. These submitters are concerned about increased compliance costs (for no benefit) and inhibiting innovation. Suggestions to address this include providing specific exemptions in the Bill.
76. The concern with potential disputes about who meets the definition relates to the legislative requirement for electricity distributors to belong to the approved electricity consumer dispute resolution scheme (currently Utilities Disputes) that would apply to secondary networks (that are not already distributors) following the change. Utilities Disputes suggest that the definition should be narrowed to include a requirement for the equipment to be “shared” – that is, for the equipment to service more than one Installation Control Point (which is a unique point at which electricity flows are metered) or consumer.

Officials’ comment

77. It is conceivable that a group of EV chargers could be joined together and operated in a way that is similar to that of an electricity distribution network. In this case, the provider of that network may meet the proposed definition of a secondary network operator. It is also possible that a rail traction electricity network may meet the new definition (KiwiRail is already registered as an electricity industry participant for the Wellington rail network as a “line owner”).
78. The Electricity Authority (the Authority), as the electricity industry regulator, has been considering the appropriate scope of its activities in relation to secondary networks, including any relevant voluntary market facilitation measures it develops and maintains. In many cases, secondary network providers already meet the definition of a distributor for the purposes of the Electricity Industry Act.
79. A key consideration in the Authority’s assessment is the costs and benefits of imposing obligations under the Electricity Industry Participation Code 2010 (which sets out the market rules) or market facilitation measures on participants.
80. As a principle, the Authority does not impose obligations where the costs outweigh the benefits. In addition, it can develop the Code so that it does not apply to particular parties, such as EV charging stations or a rail traction electricity network.
81. This approach is preferable to trying to define particular parties in the primary legislation that could be excluded, and is more consistent with the principled approach to regulation taken in the Electricity Industry Act.
82. Secondary network providers can operate on works and electrical installations, and can also be retailers (subject to the limits set out in Part 3 of the Electricity Industry Act). There are also exemption options that can be utilised to ensure the appropriate level of regulation applies.
83. The argument for excluding customer networks was considered in the development of this proposal. The amendment focuses on enabling the regulation of anyone providing the service of conveying electricity on lines that are not part of the national grid. It would be impossible to exclude customer networks without first defining them.

84. The issue of creating inappropriate obligations or requirements (that could potentially add significant costs) can be dealt with through exemptions, and/or through amending existing obligations or requirements to ensure they are appropriate (as per the proposed approach of the Electricity Authority outlined above). Future obligations and requirements can be developed in the context of the amended legislation. It is already possible to gain exemptions in certain circumstances.
85. This same argument is harder to apply if a very broad interpretation of the new definitions is adopted (as per the submission of Utilities Disputes) as it could potentially apply to landlords. In this case, an exemption option could be used, for example, “class” exemptions are possible where a particular group can be exempted from certain requirements.
86. Officials’ view is that the phrase “similar to the services provided by a distributor” in the second part of the proposed definition of a secondary network provider should rule out a landlord that does not provide a specific service like an electricity distributor (i.e. charging for the provision and maintenance of a network). However, it is important that this amendment is clear. While we do not necessarily agree that adding a requirement for the equipment to be “shared” will resolve this issue, we recommend that some amendments are considered to clarify the intention of the clause.

Concerns about unintended consequences – interaction with the *Electricity Act*

87. Four submitters, Auckland Transport, Local Government NZ, Motor Industry Association, and the RCA Forum, were concerned that the secondary network changes would have possible indirect consequences in terms of the interpretation of “works” under the *Electricity Act*. They recommended that it should be expressly stated that nothing in the new provisions affects that *Electricity Act*. WRC supported AT’s submission.
88. The submitters argue that the proposed secondary network changes imply that secondary networks must be works (rather than electrical installations) under the *Electricity Act*. They then infer that an electricity operator would have a “prima facie” right to install such secondary network equipment in roads without reference to the RCA, with serious consequences.
89. AT and LGNZ were also concerned that the Bill does not clarify the status of secondary networks for the purposes of the *Electricity Act*.

Officials’ advice

90. The amendment in the Bill has been drafted in a way that recognises the importance of ensuring that changes in definitions to address one issue do not alter how these definitions apply for other legislative purposes. Specifically, the amendment has been confined to the *Electricity Industry Act* so as to preserve the *Electricity Act*.
91. In fact, secondary networks can either be electrical installations or works under the *Electricity Act* and officials found no need to clarify this (although it is the reason for the ambiguity as to whether providers are electricity distributors or not for the purposes of the *Electricity Industry Act*, which clause 7 of this Bill addresses).
92. Further, electricity operators³ cannot use their right of access under section 24 of the *Electricity Act* without complying with the notification requirements in that Act, and have to follow the processes set out in the National Code of Practice for Utility Operators' Access to Transport Corridors (made under the *Utilities Access Act 2010*). Both provide RCAs with the opportunity to impose reasonable conditions on access to the road reserve. Nothing in the Bill changes this obligation.

³ <http://www.mbie.govt.nz/info-services/sectors-industries/energy/electricity-market/electricity-operator-status>

Other issues

There are no provisions relating to the status of EV chargers under the *Electricity Act*

93. Five submitters raised concerns that there are no changes in the Bill relating to the status of EV chargers under the *Electricity Act*. The submitters were Auckland Transport, ChargeNet, Local Government NZ, the Motor Industry Association and Waikato Regional Council.
94. The issue is that there is uncertainty about whether EV chargers are “electrical installations” or “works” under the *Electricity Act*, and their view is that this needs to be clarified.
95. Submitters argue that there are serious consequences for RCAs if EV chargers are works because of the right that section 24 right (discussed in paragraph 90 above) that gives electricity operators to construct works in the road reserve. The main concern is that use of the right of access means that an RCA may not have the final say regarding the location of an EV charger.
96. Submitters note that the Government’s position (e.g. in the national guidance on EVs issued by NZTA in January 2017) appears to be that EV chargers are electrical installations, but that electricity operators do not necessarily accept this view.
97. The EEA made note of the absence of any provisions relating to EV chargers, and emphasised that it is worth ensuring that the appropriate legislation is in place to accompany a safe uptake of EVs and charging infrastructure.

Officials’ response

98. Given the focus on EV uptake which underlies this Bill, a clear regulatory framework to support investment in charging infrastructure is important. Officials maintain the position that the legislation should not be amended at this time. In most instances, EV chargers themselves are not works. Other infrastructure associated with the charger will more clearly meet the definition of works (i.e. any lines connecting the charger to the local network). The photo in figure 1 below illustrates this point.

Figure 1: photo of road side EV charger (provided by Northpower, the electricity distributor in Northland)



99. The definitions in the *Electricity Act* are complicated and it is recognised that there is some ambiguity as to the status of newer equipment being installed in the electricity system (such as batteries and EV

chargers). Making an amendment now could have the effect of choosing a particular definition that may not be enduring, and could have unintended consequences.

100. The existing legislative framework covers safety, access and the management of access rights, and we have not identified any significant gaps.
101. Health and safety measures, including specific electrical safety measures apply to EV charging infrastructure regardless of how it is classified. WorkSafe New Zealand has developed guidance on the installation and use of EV chargers⁴.
102. The section 24 right of access is only relevant if the EV charger installer is an electricity operator⁵, and that EV charger is being installed in the road reserve. It therefore is only relevant to a subset of EV chargers. In terms of rights of access to the road reserve, a framework already exists, albeit across multiple pieces of legislation. EV charger installers that are not electricity operators can still access the road reserve through negotiation with local authorities⁶.
103. The National Code of Practice for Utility Operators' Access to Transport Corridors (Utilities Code) also provides a nationally consistent and cooperative framework to manage transport corridors while providing for access rights (including the rights electricity operators have under section 24 of the *Electricity Act*). Electricity operators are legally obligated⁷ to comply with the Utilities Code, which provides a process for risk management and dispute resolution.
104. Officials consider that issues RCAs may have with the placement of EV chargers in the road reserve are similar to issues with the placement of other structures covered by the Utilities Code (such as poles and transformers), the difference being that consumers interact with an EV charger, and require them to be accessible. Installers of EV chargers are incentivised to locate them in safe, accessible and efficient charging locations.
105. There are options for utilising and developing the existing framework without legislative change, such as providing for EV charging infrastructure under regional and district plans, and/or amending the Utilities Code to specifically provide for EV charging infrastructure. Both options provide a more flexible and adaptable way of enabling the installation of EV chargers. However, if these options are ultimately found to not support the development of public charging infrastructure, legislative change may be needed.

Need for a wider review of electricity industry legislation

106. ERANZ (supported by Meridian Energy) stressed the need for further work by regulatory agencies to ensure that business has the confidence to invest. It is concerned that the market is being affected by the current regulatory settings around emerging technology, and seeks a review.
107. ChargeNet considers that the legislative environment is unclear, with apparent contradictory positions from the Electricity Authority and the Commerce Commission – the primary electricity industry regulators. AT's submission makes a related point, noting concern about the secondary

⁴ <http://www.energysafety.govt.nz/legislation-policy/electricity-acts-regulations-codes/regulatory-guidance-notes/electric-vehicle-charging-safety-guidelines>

⁵ Electricity operator status is granted by the Minister of Energy and Resources under the *Electricity Act* to persons that the Minister has determined “need” it to commence or carry on business as an electricity distributor.

⁶ <http://www.nzta.govt.nz/planning-and-investment/planning/planning-for-electric-vehicles/national-guidance-for-public-electric-vehicle-charging-infrastructure/>

⁷ Under the *Utilities Access Act 2010*

networks changes and contradictions with the Commerce Commission's regulation of electricity distributors under the *Commerce Act 1986*.

108. Both ERANZ and ChargeNet raised concerns about regulated monopoly parts of the market (i.e. electricity distributors) being able to participate in competitive parts of the market, but not under the same competitive pressures, including the example of EV chargers.
109. ERANZ recommends that the government facilitate a cross-agency (MBIE, Electricity Authority, Commerce Commission) assessment of the regulatory settings for EVs and other emerging technology in energy, to ensure an open, safe, and competitive market can develop. ChargeNet recommends interagency co-operation in the explicit definition of EV infrastructure as installations.

Officials' advice

110. Officials have recognised that changes in technology are disrupting existing business models in the electricity sector and testing the boundaries drawn in legislation between activities. This Bill addresses legislative changes where a clear problem and regulatory response has been identified. There are wider issues that require more consideration and work is underway on this.
111. MBIE is forming a Council of Energy Regulators with the Electricity Authority, the Commerce Commission, and the Gas Industry Company. The aim of the Council is to contribute to the efficiency and effectiveness of the energy regulatory system by providing a forum for high level collaboration and information sharing.
112. Senior members from each organisation will take a whole-system view to consider regulatory issues and trends, risks, and gaps. They will share information and any emerging risks on the strategic priorities of member agencies and ensure a coordinated response in addressing issues for which there is an overlap or gap in the regulatory response.
113. While the new Council of Energy Regulators will not be a forum for policy development, any overlap or gap identified may give rise to further policy development by MBIE.

Regulations Review Committee advice

114. The Regulations Review Committee (RRC) recommended that the Commerce Committee consider amending:
 - clause 4 of the Bill to further amend the current wording of section 128 of the *Electricity Industry Act* to require regulations prescribing the method of calculation of the levy to specify the portion of EECA's costs included in the levy calculation.
 - clause 14 of the Bill to require regulations prescribing the method of calculation of the levy to specify the portion of EECA's costs included in the levy calculation.
 - clause 20 of the Bill, which inserts a new section 37A of the *Road User Charges Act 2012*, to:
 - set out clearly the purposes and criteria for the granting of an exemption under that section
 - require that any regulations made under that section must include a statement of reasons for granting any exemption contained in those regulations
 - specify that regulations made under that section expire after a period of time specified in that section.

Officials' response

115. Officials provided advice on the recommendations for the Commerce Committee's consideration on 9 March. The advice recommended no changes to the Bill in response to the first two recommendations.

116. Some amendments in response to the third recommendation have been included in this departmental report.

The changes that officials recommend

Clause 7

117. Proposed new subpart 2A in the Bill includes a definition of a secondary network and a secondary network provider.

Officials' response

118. It is important that it is clear who these definitions apply to, as discussed in paragraphs 83-84.

119. We recommend that:

- some amendments to the Bill are considered to clarify that the definitions in clause 7 are not intended to apply to a typical household landlord.

Clause 20

120. Proposed new section 37A in the Bill uses the same language as existing section 37, which provides a RUC exemption for light EVs.

Officials' response

121. In light of the RRC's advice, officials recommend changes to clause 20 so that it is more consistent with the RRC's approach to exemption powers.

122. We recommend that:

- the following criterion be added in relation to the regulation-making powers in proposed section 37A:
 - A regulation can only be made for the purpose of encouraging and supporting the uptake of heavy EVs.
 - The initial exemption should expire no later than 31 December 2025 (the date agreed by Cabinet), and any subsequent exemption should have an expiry date of no more than five years.

ENERGY INNOVATION (ELECTRIC VEHICLES AND OTHER MATTERS) AMENDMENT BILL

PART B: CLAUSE BY CLAUSE ANALYSIS

Table of submitters (note that the bracketed acronyms are used in subsequent tables)

| Submitter | Category | Notes |
|---|---|--|
| Air Future & Air Volution | Business | Developer of low emissions vehicles |
| Auckland Regional Public Health Service (ARPHS) | Interested party | Public health service for Counties Manukau Health, Auckland and Waitemata district health boards. Submission does not necessarily reflect the views of those boards. |
| Auckland Transport (AT) | Local government/road controlling authority | Auckland region. Controlled Organisation (CCO) of Auckland Council responsible for all transport functions and operations. EV charger provider. |
| Automobile Association (AA) | Association or advocacy group | Advocate for road users (1.5 million members) |
| Bus and Coach Association | Association or advocacy group | Represents bus and coach industry |
| BusinessNZ | Association or advocacy group | Represents businesses |
| ChargeNet | Business | EV charger provider |
| Ecotricity | Business | Electricity retailer |
| Electricity Engineers' Association (EEA) | Association or advocacy group | Representation for technical, engineering, health and safety and asset management issues with the electricity supply industry |
| Electricity Networks Association (ENA) | Association or advocacy group | Represents 27 electricity distribution businesses |
| Electricity Retailers Association of NZ (ERANZ) | Association or advocacy group | Represents electricity retailers |
| Flip the Fleet | Interested party | Project team of EV owners |
| Greater Wellington Regional Council (GWRC) | Local government/road controlling authority | Wellington region |
| Jean Linda Gorman | Individual | |
| Jeannie Galavazi | Individual | |



| Submitter | Category | Notes |
|---|---|--|
| Laurence Jenner | Individual | |
| Local Government NZ (LGNZ) | Association or advocacy group | National organisation of local authorities |
| Lydia Burnett | Individual | |
| Major Electricity Users Group (MEUG) | Association or advocacy group | Represents large electricity users (26 per cent of New Zealand's total electricity consumption) |
| Major Gas Users Group (MGUG) | Association or advocacy group | Represents large gas users (15 per cent of gas supplied in New Zealand) |
| Meridian Energy (Meridian) | Business | Electricity generator and retailer, partners with EV charger providers and Mevo, an EV car sharing service |
| Michael Mellor | Individual | |
| Motor Industry Association (MIA) | Association or advocacy group | Voluntary trade association representing the new vehicle industry |
| Motor Trade Association (MTA) | Association or advocacy group | Represents 3,700 businesses in automotive industry and allied services |
| Nelson Transport Strategy Group (Nelsust) | Interested party | Transport strategy group |
| NZ Motor Caravan Association | Association or advocacy group | Membership based organisation for private motor caravan owners |
| Peter Buchanan | Individual | |
| Pioneer Energy | Business | Electricity generator, retailer, and provider of on-site heat and power facilities |
| Road Controlling Authorities (RCA) Forum | Association or advocacy group | Incorporated society of road asset managers and roading professionals |
| Robert Glennie | Individual | |
| Stephen Crowsen | Individual | |
| Stephen Fletcher | Individual | |
| Te Rūnanga | Association or advocacy group | Statutory representative tribal body of Ngāi Tahu Whānui |
| Tess McCawe | Individual | |
| Trustpower | Business | Electricity generator and retailer, gas retailer, telecommunications service provider |
| Utilities Disputes | Interested party | Electricity and gas consumer dispute resolution scheme |
| Vector | Business | Electricity and gas distributor/electricity operator/EV charger provider |
| W R Parkes | Individual | |
| Waikato Regional Council (WRC) | Local government/road controlling authority | Waikato region. Submission prepared by staff and not formally endorsed by WRC. |



| Submitter | Category | Notes |
|-----------|----------|----------------------------------|
| Z Energy | Business | Liquid fuel retailer/transporter |

General comments

| Item | Submitter | Submission | Officials' comments |
|------|---------------------------|---|---|
| 001 | Air Future & Air Volution | Seeks classification for its product (which uses stored compressed air and electricity) as an electric and clean emission vehicle type. Want to make government aware of its business and note that it wants to be considered alongside other products – the legislation needs to be technology neutral. | This Bill is focussed on technology currently available with a proven track-record, but these proposals could be extended in the future to other low emissions technology when it reaches production. |
| 002 | ARPHS | <i>Notes that submission does not necessarily reflect the views of the three district health boards it serves.</i> Supports the Bills intent to introduce incentives to encourage the uptake of EVs, but has concerns about the policy regarding use of special vehicle lanes (outlined in the clause by clause analysis). Concerned with the Auckland EV Trial Bylaw as it will not produce enough data to reliably inform RCAs of the future impact of EVs in special vehicle lanes on traffic congestion. | Noted. |
| 003 | ARPHS | Additional consideration needs to be given to providing extra financial or purchase incentives to make the transition to an EV fleet more financially viable. | Noted. Financial incentives such as subsidies were considered by the Government at the time the EVs Programme was being developed. They were considered unlikely to be the most efficient or desirable way to encourage the uptake of EVs. The preference is to promote the benefits of EVs. |
| 004 | AT | Supportive of Bill, but concerned that no provision has been made for EV chargers. The Bill should provide that EV chargers are not “works” for the purposes of the <i>Electricity Act</i> – consider that there will be serious consequences to RCAs in terms of section 24 access rights set out in the Act if not. | Note the concern, but maintain the position that the legislation should not be amended at this time. Refer paragraphs 93-105 for discussion on this point. |
| 005 | AT | Concerned about possible effects on electricity charging or pricing – should consider if there are potential peak pricing impacts of the Bill on the future operation and electrification of | The proposed amendments in the Bill will have no impact on the regulatory framework for distribution pricing, aside from clarifying that secondary networks providers can be subject to |



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| | <p>AT's public transport network, street lighting etc. which are significant users of electricity at peak times.</p> | <p>any relevant requirements of the Electricity Authority, if applicable.</p> |
| <p>006 Business NZ</p> | <p>Support the intent of the Bill, but principally opposed to levy funding of EECA.</p> <p>Preferable if funding for public-good type services delivered by EECA to come from general taxation, which has the following benefits:</p> <ul style="list-style-type: none">• All taxpayers contributing and signals the strategic priority of the expenditure• Highly cost effective as uses existing tax collection• Relatively stable and predictable in comparison to a levy• Funding decisions would be subject to Treasury scrutiny, increasing EECA's accountability and efficiency. <p>The proposed funding arrangements fail to comply with government best practice funding policy guidelines (notably The Treasury's), as well as take account of some of the best practice coming out of the Australian Productivity Commission.</p> <p>EECA's activities are carried out to protect the wider public interest – the benefit is to all New Zealanders, not just selective (private) groups or particular sectors of the economy. It is not possible to exclude people from enjoying the benefits, e.g. how do you exclude those who do not pay for the service but benefit from the claimed lower overall electricity prices or the benefits of lower emissions?</p> <p>The recovery of a subsidy or incentive by levy is unusual – if there are beneficiaries that can be identified, they should be charged directly, on a fee-for-service basis. However, given the initial rationale for government intervention (energy efficiency services were being under-procured and required incentives), this will not work.</p> <p>On the other hand, compulsory payments extracted without the consent those being levied indicates the benefits of those levies are being conferred on other parties.</p> <p>Requests that the Committee asks the government to fund most of the cost of EECA from general taxation.</p> | <p>Disagree. Discussion on this point is set out in paragraphs 19-29</p> |



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| 007 | ChargeNet | <p>Supports the Bill, but has concerns about the secondary network changes (outlined in the clause by clause analysis). Care must be taken to ensure that EV charger installers can continue to install chargers in a competitive retail environment. Agree with the New Zealand Transport Authority's view that EV chargers should be treated as "installations". EV infrastructure should be considered a unique case with insulation from the regulatory environment designed for distributors who conveyed electricity via structures considered to be "works". Recommend interagency co-operation in the explicit definition of EV infrastructure as installations.</p> | Refer response to item 004. |
| 008 | Ecotricity | Supports. | Noted. |
| 009 | EEA | <p>Generally support. Note that there are no amendments regarding publicly available EV charging infrastructure, and would like to emphasise that it is worth ensuring that the appropriate legislation is in place to accompany a safe uptake of EVs and charging infrastructure. Note that this area is somewhat new and complex, and may require amendments to the Electricity (Safety) Regulations 2010, which is out of scope.</p> | <p>Noted. Refer response to item 004.</p> |
| 010 | EEA | <p>Support the purpose of the Bill. Recommend Electricity Industry Act and the Energy (Fuels, Levies, and References) Act include a clause that requires formal periodic (not more than every 5 years) reviews of levies to ensure they meet their objectives, their requirements are appropriate in light of potentially changing circumstances, and the continuation of these levies are still relevant over time.</p> | <p>Agree that it is important that all legislation continues to be appropriate and relevant over time. Departments that administer legislation already have processes to ensure legislation is fit for purpose. For example, MBIE has a regulatory systems programme, which includes policy reviews of the legislation it is responsible for to determine if any legislative change would be needed. Stakeholders can also raise issues with us about specific legislation at any time. Consider that it is unnecessary to include specific requirements for periodic review in all legislation that provides for a levy.</p> |
| 011 | ENA | Supportive of the policy proposals regarding energy levies and electricity legislation definitions and are pleased to see them progressed in a timely fashion. | Noted. |



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| 012 | ERANZ | Support any initiatives that help transition to a low-emission economy and agree that uptake of EVs is one such measure. | Noted. |
| | ERANZ | Have taken a pragmatic approach to supporting the energy levy changes, but in principle support the position of BusinessNZ and MEUG that how levy funding is appropriated and applied needs to be carefully considered and reviewed. | Noted. |
| 013 | Jeannie Galavazi | Support any changes to policy and legislation that will remove barriers to the widespread adoption of EVs in New Zealand. Incentives should be provided for families and companies wishing to purchase an EV and for companies wishing to expand on required infrastructure. | Noted. The Government announced a comprehensive package in May 2016, which aims to increase the uptake of EVs. Refer response to item 003. |
| 014 | Laurence Jenner | Support the Bill, but it does not go far enough to ensure benefits will be realised in a meaningful way, nor make a clear and firm commitment to supporting action on climate change. The real purpose of the Bill is unclear. Transport is on the only logical place to focus our efforts (assuming agriculture emissions are too hard to tackle in the short term). The amendments in the Bill, but should be expanded to: <ul style="list-style-type: none"> • Include an explicit statement that this Bill supports the objectives of COP21 Agreement by accelerating NZ's transition to sustainable transport • Help balance the currently high purchase costs of EVs by eliminating new and used vehicle registration and annual license charges for up to 5 years • Introduce a 5 per cent tax rebate for all new and used EVs purchased by individuals for up to 5 years • Consider eliminating FBT on new EVs purchased by public sector agencies and private companies for up to 5 years. | Disagree. The package of measures agreed by Cabinet included a direction to Inland Revenue to review the depreciation rate and method of calculating fringe benefit tax (FBT) to ensure current tax rules were not overtaxing business investment in EVs. Inland Revenue are due to report to the Minister of Transport on the results by 31 March 2017. Additionally, New Zealand's tax system benefits from being simple and straightforward and is not an efficient way of changing behaviour. Refer response to item 003. |
| 015 | LGNZ | Supportive of the Bill, but concerned that it does not clarify the status of EV chargers for the purposes of the <i>Electricity Act</i> . The Bill should provide that EV chargers are not "works" for the purposes of the <i>Electricity Act</i> . | Refer response to item 004. |
| 016 | Meridian | Supports in so far as it broadly supports ERANZ's submission (which is supportive of the Bill, but notes that more work is | Noted. |



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| | | needed on regulatory framework as outlined in 'matters not included in the Bill'). | |
| 017 | MEUG | <p>Supports the intent of the Bill, but principally opposed to levy funding of EECA.</p> <p>Many of the benefits of the energy efficiency outcomes sought in the Bill are for all New Zealanders, not just selective or targeted parties.</p> <p>An example is EECA's work related to climate change, where there will be wider benefits across the economy and for the environment generally.</p> <p>It is a well-established principle that where government services can be defined as public goods they are generally best funded out of general taxation. This:</p> <ul style="list-style-type: none">• Signals the strategic policy of the expenditure• Reduces cross-subsidisation by ensuring all beneficiaries contribute• Is highly cost effective and simple to administer (using existing tax systems)• Promotes stability and enhances predictability• Enhances both Treasury and broader public scrutiny and accountability. <p>Where the benefits and costs of government activity are largely of a private nature with few externalities, such activity should be funded as much as possible by user charges. This is not the case with the outcome sought by the Bill.</p> | Refer response to item 006. |
| 018 | MGUG | <p>Do not support the levy changes. Considers it a well-established principle that where services can be defined as a public good they are generally best funded out of general taxation.</p> <p>Charges aimed at providing economy wide benefits or public good should be spread over the economy as widely as possible – this reduces cross-subsidisation and free riding and also minimises the impact on the competitiveness of our export sector.</p> | Refer response to item 006. |
| 019 | MGUG | <p>There is currently underpayment of the gas levy. The gas levy is not being shown in many members' invoices from suppliers.</p> | Officials had also identified issues with the operation of the gas levy. There are some practical issues for levy payers in |



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| | | Unclear as to the actual impact of the Bill in terms of additional burden. | accurately applying the requirements of the legislation due to information barriers. There is also some ambiguity about who the legislation makes liable to pay the levy in some complex supply chain situations. Officials plan to make a later recommendation to the Committee on amendments to the Bill to mitigate this issue. The Bill may exacerbate the existing situation because it increases the amount that will be recovered by the levy. This recommended amendment is within the scope of this Bill as it will improve the operation and administration of the gas levy. Officials anticipate being able to give a final recommendation to the Committee in late March. |
| 020 | MGUG | <p>What the impact will be on the current gas levy rate of two cents per gigajoule if MBIE was to discover that it could collect twice the money for the current purpose of the levy?</p> <p>No information provided with regard to the current amount being recovered or how it is spent; there is no indication whether there area funds available from the existing pool that could be applied to this policy initiative.</p> | <p>The current rate of two cents per gigajoule is used for the safety, monitoring and information activities, the costs of which are relatively stable over time. Any additional levy collected from this set rate (if there is an increase in the number of gigajoules it is collected on) would go towards off-setting those costs (not EECA's costs).</p> <p>The amount collected through PEFML is covering the costs that it is intended to cover.</p> |
| 021 | MGUG | <p>If the energy levy changes prevail, the current exemptions should be reconsidered. For example the current gas levy is collected on piped natural gas except for gas sold as feedstock, generation of electricity and liquefied petroleum gas. If the rationale is to fund energy efficiency improvements and fuel switching to renewables, excluding gas used for electricity generation and LPG, is not consistent with this underlying philosophy.</p> <p>It is also a significant anomaly that coal is excluded.</p> <p>The exclusions for gas used for electricity generators, cogeneration, LPG should be remove, and also coal should be levied where it is used as an energy source.</p> | <p>Officials agree that there may be merit in considering if there continues to be a policy rationale for some of the exclusions, but only in the context of all of the purposes of the levy (i.e. for funding safety activities)). It is therefore outside the scope of this Bill. There would need to be full consultation on any proposed changes.</p> <p>EECA can undertake activities related to coal (such as fuel switching initiatives), but coal only represents five per cent of energy use. The existing levy on coal is only on coal extracted at open-cast mines, not on coal consumed, so re-purposing it would not have meet the levy design principles and criteria used. A new levy would have needed to be created, which would be administratively complex and costly relative to the amount of money that would be recovered.</p> |
| 022 | MIA | Supports the broad intent of the Bill, but questions the | Refer response to item 006. |



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| | | <p>expansion of levies to fund EECA.</p> <p>In general, if the services in question can be defined as public goods they are generally best funded out of general taxation. With private goods, the cost should be funded as much as possible by means of other user charges.</p> <p>Given many of the desired energy efficiency outcomes, it is evident that the services are carried out to protect the wider public interest of the economy, its citizens and the environment. The benefit is to all New Zealanders, not just selective (private) groups or particular sectors of the economy.</p> <p>Funding should more appropriately come from the consolidated fund.</p> | |
| 023 | MIA | For the most part, providers of EV charging stations should come under the legislative provisions of an “installation” – the Bill should be subject to further advice and consideration on what changes are necessary to clarify what is currently a confusing and slightly contradictory competing set of regulatory requirements. | Refer response to item 004. |
| 024 | MTA | EVs should be incentivised through other avenues such as tax rebates, awarding government contracts to use EVs. | Noted. The Government announced a comprehensive package in May 2016, which aims to increase the uptake of EVs. Refer response to item 003. |
| 025 | MTA | Cost savings to heavy vehicle operators would be more beneficial if they were to be made up front at the time of vehicle purchase. | Noted. Refer response to item 003. |
| 026 | Nelsust | Support the use of EVs to minimise air pollution, but concerned at impact on congestion (outlined in the clause by clause analysis). | Noted. |
| 027 | NZ Caravan Association | Support the government’s desire to encourage and promote the use of EVs, where suitable and practicable, to assist with the reduction of carbon emissions and greenhouse gases. | Noted. |
| 028 | Peter Buchanan | Support the Bill in principle – the amendment heads in the right direction, though comes some years after government policy in other countries that have more readily shown leadership in sustainable transport options. | Noted. |
| 029 | Pioneer | Supports, but notes that submission only relates to the | Noted. |



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| | Energy | secondary network changes (outlined in clause by clause). | |
| 030 | RCA Forum | Generally supportive. | Noted. |
| 031 | Robert Glennie | Generally support the Bill as it goes some way towards addressing the need for more efficient private vehicles with regards to emissions discharge. However, more should be done to encourage non plug-in hybrid vehicles – they don't have to be plugged in. Lead car batteries are very toxic to dispose of – Toyota and other companies are putting substantial research into lithium batteries and to ensure that batteries of hybrid cars do not get dumped when they die. | Noted. The conventional hybrid market is relatively well established in New Zealand. We also note that 90 percent of charges take place at home or business. Additionally, the public charging station network is expanding across New Zealand with some recent additions in smaller towns such as Thames, Featherston and Takaka. |
| 032 | Stephen Crowson | Not convinced that life on this planet is in peril of carbon dioxide poisoning or excessive heat or some similar CO2 catastrophe – provides own analysis of radiation absorption wavelengths of gases in the atmosphere. | Noted. |
| 033 | Te Rūnanga | Supports the overall intent of the amendments proposed in this Bill as it is a positive step in realising the need for a suite of policy to address emissions reduction and climate change. Urge the government to continue to introduce policies that incentivise adoption of low emissions technologies, and to be bold in doing so. | Noted. There are other work streams underway, including the replacement of the government's energy efficiency and conservation strategy (which includes the promotion of renewables), and the wider EVs Programme that aims to increase the uptake of EVs. |
| 034 | Tess McCaw | The Bill is one tiny step in the right direction. Dependency on fossil fuels forces New Zealanders into alignments with political ideologies and regimes unlikely to be in the long term interests of our country and children. Innovation and implementation of renewable energy sources will help us look after our country and planet. Using the energy of the sun to generate electricity isn't rocket science, so let's get on with it. | Noted. |
| 035 | Trustpower | Generally supportive. | Noted. |
| 036 | W R Parkes | Submission requests that the Committee investigates the enormous potential of the Air Future Ltd company, which would provide motor vehicles with little or no carbon emissions, and electricity production on site without power lines. Attaches a company newsletter. | Noted. |



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| 037 | WRC | Supportive of the Bill, but submits that EV chargers are not “works” for the purposes of the <i>Electricity Act</i> and refers to comments by AT and GWRC. | Refer response to item 004. |
| 038 | WRC | A wider package of measures to incentives heavy EVs would be of greater value. In particular it suggested, keeping a separate class for registration purposes for heavy EVs for a specific time period and increased charging stations in key locations. | Noted. The Government announced a comprehensive package in May 2016, which aims to increase the uptake of EVs. Transport Officials are open to the consideration of further initiatives in the future that will help achieve the aim of increased uptake of EVs. |
| 039 | Z Energy | Agrees in principle with the outcomes the Bill aims to achieve. There is a good opportunity to faster accelerate the uptake of low emission heavy vehicles and this could be achieved by adopting the more traditional definition of an EV. | Noted. |

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Commencement and Part 1 – Preliminary provisions

| Item | Clause | Submitter | Submission | Officials' comments |
|------|---------|-----------|---|---------------------|
| | 1 and 2 | | No submissions specifically on this part. | |

Part 1 – Amendments to Electricity Industry Act 2010

| Item | Clause | Submitter | Submission | Officials' comments |
|--------------------|--------|---|--|---|
| Clauses 3-7 | | | | |
| 101 | 4 | AT, ChargeNet, Ecotricity, ENA, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Vector, WRC. | Support. | Noted. |
| 102 | 4 | BusinessNZ MGUG | Do not support. | Noted. |
| 103 | 4 | EEA | Do not support. Deleting any reference to the scope of activities funded will mean that there will be no legal requirement preventing EECA from allocating levy funds to administrative or other operational activities not directly relevant to its energy efficiency mandate. Recommend inserting "...in relation to the encouragement, promotion, and support of energy efficiency, energy conservation and the use of energy from renewable sources" instead. | Disagree. All of the costs that EECA incurs must relate to its statutory purpose, which is to encourage, promote and support energy efficiency, energy conservation, and the use of renewable sources of energy. This requirement is set out in the annual Estimates of Appropriations (which outlines expenses and capital expenditure the Government plans to incur). |



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| 104 | 4 | Trustpower | <p>Support, but concerned that EECA could potentially extend the use of the electricity levy to fund activities that do not have a beneficiary or causer link to electricity.</p> <p>Recommend inserting “in relation to the encouragement, promotion, and support of energy efficiency, energy conservation and the use of energy from renewable sources through activities that directly impact industry participants” (so can still use electricity for EV uptake).</p> | <p>Disagree. This would reduce flexibility and increase the administrative complexity and cost of the levy.</p> <p>The intention of the proposed levy design is to enable the relative contributions of each of the three levies to “broadly align” with EECA’s work programme, not to have to apply a strict legal test to the use of a particular levy. The design aims to minimise administrative complexity and cost.</p> <p>Officials acknowledge the need to balance this flexibility with the need for accountability and transparency. Cabinet has agreed that EECA’s annual consultation must set out (amongst other things) the link between those groups being levied and whether they are either the beneficiaries, or the ‘causers’ of the need for each programme it intends to levy fund.</p> |
| 105 | 4 | Trustpower | <p>Support addition of 128(5)(aa) provided that the extent of the under and over recovery of costs is reported by EECA during its consultation.</p> | <p>Any under or over recovery of levy funding will need to be reported to enable the levy rate to be set correctly. At minimum, it will be reported in the Estimates of Appropriations each year.</p> |
| 106 | 4 | Trustpower | <p>Section 128(5)(b) of the Electricity Industry Act may need amending or removing as the new 128(5)(aa) may make it redundant.</p> | <p>Disagree. This is still required for the levy regulations made under section 128 as they apply to the Electricity Authority.</p> |
| 107 | 5 | <p>AT, ChargeNet, Ecotricity, EEA, ENA, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie,</p> | <p>Support.</p> | <p>Noted.</p> |



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| | | Trustpower, Vector, WRC. | | |
| 108 | 5 | BusinessNZ MGUG | Do not support. | Noted. |
| 109 | 6 | AT, ChargeNet, Ecotricity, ENA, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Vector, WRC. | Support. | Noted. |
| 110 | 6 | BusinessNZ | <p>If the changes to energy levies proceed, there should be a requirement for heightened accountability to levy payers by requiring additional reporting elements when EECA annually consults on the application of the levy funds. Recommend adding the following to clauses 6 and 12: “(2) When consulting with those persons liable to pay the levy, the EECA must include –</p> <ul style="list-style-type: none"> a the forecast spending outturn against the spending activities approved for the previous financial year; and b an explanation of any material variances between approved spending and forecast; and c the energy efficiency outcomes achieved by the spending; and d a statement of the energy efficiency outcomes expected to be achieved in the new financial year.” | <p>Disagree.</p> <p>As a Crown entity, EECA already has statutory obligations to account for any differences between the planned and actual delivery of outputs. For example, EECA must set out its outputs in an annual Statement of Performance Expectations (SPE), which is then reported on quarterly to the Minister or Energy and Resources, and in its Annual Report.</p> <p>Officials are of the view that these current reporting obligations, along with the additional expectation set out by Cabinet for EECA’s consultation, are adequate to ensure accountability and transparency.</p> <p>Further, officials consider that providing too much prescription in the legislation will not allow consultation processes to evolve over time to remain effective and meaningful.</p> |



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| 111 | 6 | EEA | <p>The Bill should specify and clarify the intent that the annual consultations on EECA's appropriations include details about EECA's draft work programme, show the proposed amounts for each levy and stipulate which levy will be used for each activity.</p> <p>Recommend adding the following to clauses 6 and 12:</p> <ul style="list-style-type: none">• for each activity, the levy revenue allocated and the actual spending for the previous year, with explanations on any discrepancies between EECA's budget and actual spending• EECA's work programme and the proposed levy amounts and allocation for the new year, with explanations for the rationale behind each activity in light of the Treasury's Guidelines and the New Zealand Energy Strategy; and• an analysis of the energy efficiency achievements made in the past year, where practicable broken down by activities, and new energy efficiency targets for the new year. | <p>Disagree. Refer response to item 110.</p> |
| 112 | 6 | MEUG | <p>Concerned about cross-subsidisation between levy payers. EECA's activities can have wider benefits than just for levy payers, or benefits that are distributed across the broader economy.</p> <p>Some of EECA's funding goes to individual companies that then receive private benefit. Reducing the quantum of levy on electricity users is supported as it should reduce (but not remove) this problem.</p> <p>There is a need to promote transparency and accountability for how effectively EECA is spending levy payer funding.</p> <p>Recommend adding the following to clauses 6 and 12: In 129A(2), add to the end: "...including an assessment of</p> | <p>Disagree. Refer response to item 110. In addition, EECA is already subject to the public sector framework for accountability and transparency, including regarding the release of information (e.g. the Official Information Act 1982).</p> |



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| | | | <p>a Whether there is any cross-subsidisation between levy payers; and</p> <p>b Classification and justification for assigning proposed work programmes as either a “wider public good” or a “private good” or a combination of those given only public goods specific to the energy form levied can be paid by a levy on users.”</p> <p>A new clause 129(2A) to be inserted that:</p> <p>“The EECA must publish as soon as practicable ahead of consulting on an appropriation for a forthcoming year a list of parties that received payments from a levy funded work programme in the year just ended, the quantum of those payments, and qualify the efficiencies expected or achieved from that payment.”</p> | |
| 113 | 6 | MGUG | <p>Do not support. EECA provided estimates of gas savings from prior years, but these were not supported by or referenced to any costs for those years. Sceptical that good cost/benefit analysis to justify any levy will be provided in future.</p> | Noted. |
| 114 | 6 | MIA | <p>There needs to be more transparency and accountability.</p> <p>Recommend adding the following to clauses 6 and 12:</p> <ul style="list-style-type: none">• The forecast spending outturn against the spending activities approved for the previous financial year; and• An explanation of any material variances between approved spending and forecast; and• The energy efficiency outcomes achieved from that spending; and• A statement of the energy efficiency outcomes expected to be achieved in the new financial year. | Disagree. Refer response to item 110. |
| 115 | 6 | Trustpower | <p>Support, but urge EECA to consult on overall work programme, not only those programmes and activities which are attributable to a given levy.</p> | Disagree. Refer response to item 110. |



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| | | | Regular reporting on projected results and ex-post outcomes would provide a wider range of info for business decision-making. This would assist not only the targeting of future EECA work programmes, but with encouraging market-driven innovation focussed on energy efficiency. | |
| 116 | 7 | AT | Has possible indirect consequences in terms of the interpretation of “works” under the <i>Electricity Act</i> and should expressly state that nothing in it affects that Act. | Disagree. The amendment in the Bill has been drafted in a way that recognises the importance of ensuring that changes in definitions to address one issue do not alter how these definitions apply for other legislative purposes. Specifically, the amendment has been confined to the <i>Electricity Industry Act</i> so as to preserve the <i>Electricity Act</i> . |
| 117 | 7 | AT | Does not clarify the status of secondary networks for <i>Electricity Act</i> purposes, and concerned about contradictions with the Commerce Commission’s regulation of electricity distributors under the Commerce Act 1986. | The intention of the proposed amendment was to preserve the status quo regarding the <i>Electricity Act</i> . While complicated, consultation on the development of this proposal found that the definitions in the <i>Electricity Act</i> appeared to be fit-for-purpose and were not creating any significant issues with regards to its application. Regulation under the Commerce Act 1986 is out of scope. |
| 118 | 7 | AT | Should clarify whether secondary network providers are ‘distributors’ or ‘retailers’ of “works” or “electrical installations”. | Secondary network providers can operate on works and electrical installations, and can also be retailers (subject to the limits set out in Part 3 of the <i>Electricity Industry Act</i>). |
| 119 | 7 | ChargeNet | Does not provide sufficient clarity – the term ‘equipment’ in the new definition does not specifically exclude emerging technology that clearly fits the definition of an installation, such as a group or series of networked EV chargers. | Disagree that the definition should specifically exclude emerging technology (refer responses to general comments). |
| 120 | 7 | ChargeNet | Has potential to stifle the competitive market – neither description is precise enough to provide the stable investment environment needed to encourage uptake of emerging technologies that facilitate transport. The Electricity Authority considers EV charging services as retailing, while this change could see EV infrastructure defined as a secondary network and subject to a regulatory regime designed for distributors. | Discussion on this point is in paragraphs 77-86. |



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| 121 | 7 | Ecotricity, ENA, ERANZ, Laurence Jenner, Meridian, Vector. | Support. | Noted. |
| 122 | 7 | EEA | Support. The proposed definitions are consistent with those associated with distribution lines and “distributor” (in that the use of the term “conveyance” is also used in the definition of “distribution”). Appreciate that it will not impact the status of secondary networks under the <i>Electricity Act</i> (when they can be classified as electrical installations). | Noted. |
| 123 | 7 | GWRC | Supportive of intent. The Wellington rail traction electricity network (owned by KiwiRail) and future technology such as induction charging embedded in roadways should be exempt from the application of the Electricity Industry Act as it would apply to secondary networks. | Disagree. An exemption would be difficult to include in the primary legislation. The legislation already provides for exemptions to be granted. |
| 124 | 7 | LGNZ | Does not clarify the status of secondary networks for the purposes of the <i>Electricity Act</i> | Refer response to item 116. |
| 125 | 7 | LGNZ | Risk that indirectly affects the interpretation of the <i>Electricity Act</i> as it implies that secondary networks must be “works” (rather than “installations”) – an electricity operator would then have a “ <i>prima facie</i> ” right to install such equipment in roads without reference to the road controlling authority. Consequences could be serious in terms of rights of access to the road corridor. The Bill should expressly state that nothing in it affects the <i>Electricity Act</i> . | Refer response to item 116. Further, electricity operators cannot use their right of access under section 24 of the <i>Electricity Act</i> without complying with the notification requirements in the Act, and has to follow the processes set out in the Utilities Code (made under the Utilities Access Act 2010. Both provide the road controlling authority with the opportunity to impose reasonable conditions on access to the road reserve. Nothing in the Bill changes this obligation. |
| 126 | 7 | MIA | Linkages to other legislation are confusing – “conveyance” is not defined in either the <i>Electricity Act</i> or the Electricity Industry Act, but it is used in the definition of “distribution” in the latter. | The term conveyance has been used to be consistent with the terminology used in the definition of distribution – the common meaning of the term is intended to apply. |
| 127 | 7 | MIA | The clarification remains vague as it applies to those | Refer response to item 120. |



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| | | | <p>companies retailing electricity to vehicle owners through charging stations.</p> <p>It will not always be appropriate to classify EV charging facilities as secondary networks. The legislation should clarify and provide for retailing from EV chargers – it should not be onerous or restrictive.</p> | |
| 128 | 7 | Pioneer Energy | Agree with intent and appears that the proposed definition aligns with the current definition or scope of a distributor. | Noted. |
| 129 | 7 | Pioneer Energy | The definition of a distributor [in the Electricity Industry Act] should end at the Installation Control Point (ICP) – this is a unique point at which electricity flows are metered and charged for. What happens beyond the ICP has no bearing on the operation of the market or implications for its participants – the complexity and complications of the industry code (developed and administered by the Electricity Authority) should not go beyond the ICP. | <p>Disagree. Under the existing framework, the industry code can developed and applied based on obligations to the ICP when relevant.</p> <p>Some non-regulatory measures need to apply beyond the ICP (such as measures to protect vulnerable consumers), and some customers on secondary networks do not have ICPs.</p> |
| 130 | 7 | Pioneer Energy | Extending the implications of being a distributor past the ICP has the potential to restrict or inhibit innovation in the market – absence of complexity tends to incubate the development of new ideas. | Disagree. The Bill does not change the definition of a distributor. |
| 131 | 7 | RCA Forum | The proposed definition would include “non-distributing networks”, such as the traction network of any electrified rail line or any future light-rail line or induction charging network for EVs set within the road corridor. This could increase compliance costs for no benefit, and inhibit the adoption of innovative technical solutions. The Bill should be amended to exclude any network where the services are not akin to those of an electricity distributor. | <p>Disagree. The Bill effectively does this through the second part of the definition of a secondary network provider in 131A(2) in clause 7.</p> <p>Refer response to item 125.</p> |
| 132 | 7 | RCA Forum | Has possible unintended consequences in terms of the interpretation of “works” under the <i>Electricity Act</i> that could be serious for RCAs in terms of section 24 rights of access under that Act. The Bill should expressly state that nothing in it affects the <i>Electricity Act</i> . | Refer response to item 125. |
| 133 | 7 | Trustpower | Agree with amendment, but only in so far as it would | Disagree. The argument for excluding customer networks |



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| | | | <p>apply to embedded networks and network extensions. In respect of customer networks though, it has the potential to add significant costs when conveyance is not their primary business activity – generalising the treatment of different business models may stifle their development.</p> <p>Customer networks should be explicitly excluded until work is done to clearly define what would constitute one and it is possible to gain exemptions.</p> | <p>was considered in the development of this proposal. The amendment focuses on <i>enabling</i> the regulation of anyone <i>providing the service</i> of conveying electricity on lines that are not part of the national grid.</p> <p>The issue of this creating inappropriate obligations or requirements (that could potentially add significant costs) can be dealt with through exemptions, and/or through amending existing obligations or requirements to ensure they are appropriate.</p> <p>Future obligations and requirements can be developed in the context of the amended legislation.</p> <p>It would be impossible to exclude customer networks without first defining them. It is already possible to gain exemptions in certain circumstances.</p> |
| 134 | 7 | Utilities Disputes | <p>Welcome the intention to clarify the status of secondary networks. The proposed definition is broad (it could be argued to cover a typical household landlord) and is not clear what services are “similar to the services provided by a distributor”. As is, it could result in disputes about which businesses meet the definition. The definition should be narrowed to include a requirement for the equipment to be “shared” – that is for the equipment to service more than one ICP or consumer.</p> | <p>Noted. Do not necessarily agree that adding a requirement for the equipment to be “shared” will resolve this issue. Officials recommend that amendments are considered to clarify the intention of the clause.</p> |
| 135 | 7 | WRC | <p><i>Note that submission not formally endorsed by the Council.</i></p> <p>Concerned about wider implications for the energy industry – AT and GWRC have elaborated on this as it relates to secondary networks.</p> | <p>Refer responses to items 116-118 and 123.</p> |

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

| Item | Clause | Submitter | Submission | Officials’ comments |
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| Clauses 8-15 | | | | |
| 201 | 9 | AT, ChargeNet, | Support. | Noted. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | Ecotricity, EEA, ENA, Lawrence Jenner, Peter Buchanan, RCA Forum, Robert Glennie, Trustpower, Vector, WRC. | | |
| 202 | 11 | AT, ChargeNet, Ecotricity, ENA, ERANZ, Lawrence Jenner, LGNZ, Meridian, Peter Buchanan, RCA Forum, Robert Glennie, Te Rūnanga, Vector, WRC. | Support. | Noted. |
| 203 | 11 | BusinessNZ MGUG | Do not support. | Noted. |
| 204 | 11 | EEA | Do not support. Deleting any reference to the scope of activities funded will mean that there will be no legal requirement preventing EECA from allocating levy funds to administrative or other operational activities not directly relevant to its energy efficiency mandate. Recommend adding the following text: | Refer response to item 103. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | | "...in relation to the encouragement, promotion, and support of energy efficiency, energy conservation and the use of energy from renewable sources". | |
| 205 | 11 | MEUG | If EECA is to continue to be levy funded (which MEUG is principally opposed to), then support this clause. | Noted. |
| 206 | 11 | Trustpower | Support, however the proposed section should specify the intended use of the levy appropriation. Recommend adding the following text: "...in relation to the encouragement, promotion, and support of energy efficiency, energy conservation and the use of energy from renewable sources through activities that directly impact industry participants,..." | Refer response to item 104. |
| 207 | 12 | AT, ChargeNet, Ecotricity, ENA, ERANZ, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Te Rūnanga, Vector, WRC. | Support. | Noted. |
| 208 | 12 | BusinessNZ | If the changes to energy levies proceed, there should be a requirement for heightened accountability to levy payers by requiring additional reporting elements when EECA annually consults on the application of the levy funds. Recommend adding the following to clauses 6 and 12: “(2) When consulting with those persons liable to pay the levy, the EECA must include – a the forecast spending outturn against the spending activities approved for the | Disagree. Refer response to item 110. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | | <p>previous financial year; and</p> <p>b an explanation of any material variances between approved spending and forecast; and</p> <p>c the energy efficiency outcomes achieved by the spending; and</p> <p>d a statement of the energy efficiency outcomes expected to be achieved in the new financial year.”</p> | |
| 209 | 12 | EEA | <p>The Bill should specify and clarify the intent that the annual consultations on EECA's appropriations include details about EECA's draft work programme, show the proposed amounts for each levy and stipulate which levy will be used for each activity.</p> <p>Recommend adding the following to clauses 6 and 12:</p> <ul style="list-style-type: none">• for each activity, the levy revenue allocated and the actual spending for the previous year, with explanations on any discrepancies between EECA's budget and actual spending• EECA's work programme and the proposed levy amounts and allocation for the new year, with explanations for the rationale behind each activity in light of the Treasury's Guidelines and the New Zealand Energy Strategy; and <p>an analysis of the energy efficiency achievements made in the past year, where practicable broken down by activities, and new energy efficiency targets for the new year.</p> | Disagree. Refer response to item 110. |
| 210 | 12 | MEUG | <p>Concerned about cross-subsidisation between levy payers. EECA's activities can have wider benefits than just for levy payers, or benefits that are distributed across the broader economy.</p> <p>Some of EECA's funding goes to individual companies that</p> | Disagree. Refer response to item 112. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | | <p>then receive private benefit. Reducing the quantum of levy on electricity users is supported as it should reduce (but not remove) this problem.</p> <p>There is a need to promote transparency and accountability for how effectively EECA is spending levy payer funding.</p> <p>Recommend adding the following to clauses 6 and 12:</p> <p>In 129A(2), add to the end: "...including an assessment of</p> <ul style="list-style-type: none">a Whether there is any cross-subsidisation between levy payers; andb Classification and justification for assigning proposed work programmes as either a "wider public good" or a "private good" or a combination of those given only public goods specific to the energy form levied can be paid by a levy on users." <p>A new clause 129(2A) to be inserted that:</p> <p>"The EECA must publish as soon as practicable ahead of consulting on an appropriation for a forthcoming year a list of parties that received payments from a levy funded work programme in the year just ended, the quantum of those payments, and qualify the efficiencies expected or achieved from that payment."</p> | |
| 211 | 12 | MGUG | Do not support. | Noted. |
| 212 | 12 | MIA | <p>There needs to be more transparency and accountability.</p> <p>Recommend adding the following to clauses 6 and 12:</p> <ul style="list-style-type: none">• The forecast spending outturn against the spending activities approved for the previous financial year; and• An explanation of any material variances between approved spending and forecast; and• The energy efficiency outcomes achieved from that | Disagree. Refer response to item 110. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | | spending; and • A statement of the energy efficiency outcomes expected to be achieved in the new financial year. | |
| 213 | 12 | Trustpower | Support, but urge EECA to consult on overall work programme, not only those programmes and activities which are attributable to a given levy. Regular reporting on projected results and ex-post outcomes would provide a wider range of info for business decision-making. This would assist not only the targeting of future EECA work programmes, but with encouraging market-driven innovation focussed on energy efficiency. | Disagree. Refer response to item 110. |
| 214 | 13 | AT, ChargeNet, Ecotricity, EEA, ENA, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Trustpower, Vector, WRC. | Support. | Noted. |
| 215 | 13 | BusinessNZ MGUG | Do not Support. | Noted. |
| 216 | 14 | AT, ChargeNet, Ecotricity, EEA, ENA, Lawrence | Support. | Noted. |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Te Rūnanga, Trustpower, Vector, WRC. | | |
| 217 | 14 | BusinessNZ MGUG | Do not support. | Noted. |
| 218 | 15 | AT, ChargeNet, Ecotricity, EEA, ENA, Lawrence Jenner, LGNZ, Peter Buchanan, RCA Forum, Robert Glennie, Trustpower, Vector, WRC. | Support. | Noted. |
| 219 | 15 | BusinessNZ | Do not support. | Noted. |
| 220 | 15 | MGUG | <p>The obligation on EECA to consult on its work programme will only begin in 2018/19, hence the levy amount in 2017/18 has been set without any analysis/confirmation that the benefits will exceed the costs.</p> <p>It appears that EECA considers it is not obliged to because the amount allocated to gas has been set by the</p> | <p>Despite there being no requirement for EECA to consult on the gas and PEFML amounts for 2017/18, it did undertake some consultation on its work plan with the relevant proposed levy payers.</p> <p>Cabinet agreed to the proposed allocations for 2017/18 (40 per cent of levy funding from the electricity levy, 50 per cent from the PEFML, and 10 per cent from the gas levy) on the</p> |



| Item | Clause | Submitter | Submission | Officials' comments |
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| | | | Government. | basis that they broadly reflected the current energy mix and EECA's indicative work programme. Cabinet agreed to the initial allocations to enable a smooth transition to the new levy arrangements. |

Part 3 – Amendment to the Land Transport Act 1998

| Item | Submitter | Submission | Officials' comments |
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| Clauses 16-17 | | | |
| 301 | AA | Supportive of the intent of this amendment. Seeing EVs travelling in transit lanes will help encourage some to consider purchasing an EV, where practical, in order to enjoy faster commuting times. | Noted. |
| 302 | AA | Based on overseas jurisdictions, note that the use of transit lanes should be seen as temporary until a certain volume of EVs is reached. RCAs should be encouraged to introduce such bylaws fully in the expectation that they will eventually have to withdraw them, although this could be applied on a corridor-by-corridor basis. | Noted. RCAs can phase this initiative out through their bylaw making process when they believe that it is having detrimental effects to their transport priorities. |
| 303 | AA | Certain criteria to identify suitable transit lanes should be universally applied by RCAs. So that, for example, it does not negatively impact on bus travel times or travel times for traffic in the general lanes (as EVs will have to frequently re-enter the general lane in order to pass a stationary bus). | Noted. The NZTA and AT have developed a viability assessment methodology that will enable RCAs to comprehensively consider all safety and performance factors when considering whether to open special vehicle lanes to EV access. |
| 304 | AA | Consideration needs to be given to excluding bus lanes that have a high volume of cyclists, as silent EVs are hard to detect (unlike buses). | RCAs will have the ability to balance their transport priorities and make their own decisions on a lane-by-lane basis. The same issue with noise has existed for more than 10 years with conventional hybrids. However, many EVs generate an artificial sound as a pedestrian safety measure. |
| 305 | AA | Robust, proportionate enforcement will be essential to the successful application this initiative and that RCAs will need to be provided with clear guidance on enforcement. Currently, transit lane enforcement is predominantly conducted | Noted. To enforce this initiative, enforcement officers or approved RCA staff will be able to check the vehicles licence plate against the Motor Vehicle Register (MVR). The MVR will show whether the vehicle is an EV or not. |



| Item | Submitter | Submission | Officials' comments |
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| | | <p>manually, by council staff monitoring what vehicles are using transit lanes. This has been proven to be unreliable with people being incorrectly fined. Does not consider it acceptable that motorists are fined when councils cannot prove beyond reasonable doubt that they breached the transit lane rules. This must not be applied to the EV transit lane exemption.</p> <p>While special-coloured number plates or stickers could be used to identity EVs (and plug in hybrid EVs – PHEVs); these risk human error from manual identification, and fraudulent use. Automated enforcement of EVs must be used, via Automatic Number Plate Recognition (ANPR). By accessing the Motor Vehicle Register (MVR), ANPR would distinguish EVs and PHEVs from other light vehicles. There is some work required to update the MVR for this to happen. Recommends that RCAs must be directed to use ANPR for transit lane enforcement.</p> | <p>The MVR also shows the owner of the vehicle enabling a fine to be sent to them if necessary.</p> <p>Officials are recommending an amendment to improve the ability for RCAs to enforce the correct use of these lanes. The proposed amendment provides that an image taken by approved vehicle surveillance equipment can be evidence of the unauthorised use of a special vehicle lane (refer item 354). As well as enabling electronic monitoring, work is currently underway to improve the quality of EV information in the MVR. RCAs are responsible for the enforcement of special vehicle lanes and ANPR technology is available to RCAs coupled with access to the MVR.</p> |
| 306 | AA | Need for a public information campaign so that other motorists understand why some cars are using transit lanes, as not everyone will recognise them as EVs, and how this is being fairly enforced. | Noted. This is appropriate on a local level and is not necessary nationwide, as a number of RCAs do not have special vehicle lanes. |
| 307 | AA | EV markings should be placed at regular intervals on the transit lanes, especially at every entry point. | <p>Noted. It is intended that the Rules will require that signage will be erected that will display which vehicles are allowed access to the respective lane. The proposal is that the Rules (yet to be drafted) will require an RCA to:</p> <ul style="list-style-type: none"> erect signage displaying what kind of vehicle is allowed access to the respective lane <p>at the start of the special vehicle lane, and after each intersection along its length, mark on the road surface a white symbol defining the class or classes of vehicle for which the lane has been reserved.</p> |
| 308 | ARPHS | Does not support this initiative, as this would adversely affect the efficiency of existing transport networks and strategies designed to enhance overall mobility. It recommends the committee removes the initiative from the Bill, and consider other incentives. | Disagree. Refer response to item 304. |
| 309 | ARPHS | There are many health benefits to society by moving to EVs e.g. cleaner air less emissions etc. | Noted. The Government's objective in increasing EV uptake is primarily to reduce emissions, and it will also bring air quality |



| Item | Submitter | Submission | Officials' comments |
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| | | <p>However, argue that this initiative will have a negative effect on the efficiency of Auckland's transport network and could also disrupt other transport initiatives designed to promote sustainable mobility.</p> <p>This initiative will also incentivise those that live close to special vehicle lanes to switch from public transport and active modes to using EVs due to potential time savings. It may benefit EV users but increase the amount of vehicles on the road.</p> <p>The increased congestion will have negative health effects. It will increase travel times for the majority of drivers, thus increasing physical inactivity, commuting-related mental health disorders and stress. It will also increase total energy consumption for the road transport system which will increase GHG emissions.</p> | <p>benefits. The larger uptake of EVs will help reduce emissions and create better air quality.</p> |
| 310 | ARPHS | <p>Note from the Norway experience of this policy that instead of EVs replacing conventional vehicles, EVs in Norway have become additional cars in prosperous households.</p> | <p>Noted. The package of incentives given to EV owners in Norway is much more extensive than that in New Zealand (e.g. Norway incentives include subsidies, free use of toll roads and ferries). This may have driven the trend ARPHS has noted.</p> |
| 311 | ARPHS | <p>This initiative is essentially subsidising the rich to own expensive cars and bypass traffic at the expense of everyone else i.e. it is not even a user-pays/tolled system.</p> | <p>Noted. The prices of EVs are falling and in many instances comparable to conventional vehicles. A low mileage 2011 Nissan Leaf can now be bought from \$13,000.</p> |
| 312 | AT | <p>Supports the proposal to enable, rather than require, RCAs to allow EVs to be used in special vehicle lanes.</p> | <p>Noted.</p> |
| 313 | AT | <p>Acknowledges that the substantive changes to provide for EVs in special vehicle lanes will be made by amendments to the Land Transport Rules. Awaits the release of the proposed rule amendments in order to understand the detail of the proposal.</p> | <p>Noted. The detail of what the proposed Rule changes will look like is reflected in website material and email content (provided to interested stakeholders on 10 January 2017).</p> |
| 314 | AT | <p>Consider that the definition of an EV needs to be amended to include plug-in hybrid vehicles that meet a particular CO2 emissions standard or age limit so that benefits are being provided to those making a genuine emission reduction.</p> | <p>Disagree. The purpose of the EV package is to support the move to a new form of vehicle technology which will reduce emissions overall.</p> |
| 315 | AT | <p>Allowing EVs to access Auckland special vehicle lanes will negatively affect its ability to deliver public transport services and will cause safety concerns. For example, EVs would be delayed in</p> | <p>Noted. Refer response to item 304. RCAs will have the ability to balance their transport priorities</p> |



| Item | Submitter | Submission | Officials' comments |
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| | | bus lanes and may make unsafe manoeuvres in congested lanes. | and make their own decisions on a lane-by-lane basis. |
| 316 | AT | The introduction of EVs into special vehicle lanes will create enforcement issues (added time and costs). This is because of a lack of external indicator making it hard to differentiate between an EV and non EV. | Noted. Refer response to item 305. |
| 317 | AT | Believe that due to the lack of external indicators on EVs it will also create road user confusion and other road users will presume the lane is open for them to use (in Auckland some special vehicle lanes are not 24 hour lanes which may increase confusion). | Noted. Refer response to item 307. |
| 318 | AT | Believe that this initiative will erode national consistency when it comes to special vehicle lanes as some RCAs may allow EVs into these lanes while others may not. This could add to road user confusion in relation to the policy. | Disagree. Currently, to enable RCAs to balance their respective transport priorities, they can apply different rules to different lanes across their jurisdiction. Refer response to item 307. |
| 319 | Bus and Coach Association | Opposes this initiative. While it might be a successful strategy to encourage the uptake of EVs, the policy is likely to have significant negative impacts if it is successful. | Noted. Refer response to item 304. |
| 320 | Bus and Coach Association | The purpose of these lanes is primarily congestion reduction. Allowing EVs access to these lanes will not contribute to these outcomes, and will likely undermine them over time (e.g. efficiency benefits for public transport will be lost and the benefit to EV owners will be significantly reduced). | Noted. Refer response to item 304. |
| 321 | Bus and Coach Association | Notes the Norway experience and in particular described its weaknesses when EV numbers exponentially grow which is now causing major issues for the punctuality of bus services. | Noted. Refer response to item 302 and 304. |
| 322 | Bus and Coach Association | Over time this initiative can be expected to make public transport less attractive in our cities, and ultimately be detrimental to achieving transport and land use outcomes. | Noted. Refer response to item 302. |
| 323 | ChargeNet | Support inclusion of transport that lowers carbon emissions in special vehicle lanes, only as and where recognised as appropriate for the region by local transportation authorities discretion and autonomy, and see no short-term issue with the amendment. Note that this policy has been successful in overseas jurisdictions like Norway but has been part of policy package that included significant tax breaks at point of purchase for new EVs. Norway is | Noted. Refer response to item 302. |



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| | | now politically struggling to phase out this incentive, which has become a congestion issue. | |
| 324 | Ecotricity | Supports the Bill but would prefer it mandatory to allow EVs in special vehicle lanes and not be left up to local councils to make decisions. | Disagree. The Government decided to allow RCAs to opt-in to this initiative as RCAs need to have the ability to balance their transport priorities and make their own decisions on a lane-by-lane basis. |
| 325 | Flip the Fleet | <p>Provided the results of a survey that went to 39 low emission vehicle owners (LEVs). The survey asked '<i>The Ministry of Transport is considering enabling RCAs to allow EVs access to special vehicle lanes</i>'. Feedback was provided using a 1 – 5 scoring system (1 being a great idea – 5 being a horrible idea). Nineteen respondents (63 per cent) thought the initiative is a 'great' or 'good' idea, compared to 7 (23 per cent) who think is a 'bad' or 'horrible' idea.</p> <p>Feedback from some survey respondents noted that a need to prioritise public and shared transport above LEVs, even though LEVs should be prioritised above single drivers of internal combustion vehicles. However others argue that it will have little effect to congestion in special vehicle lanes. Other observations from some survey respondents:</p> <ul style="list-style-type: none">• improved visibility to give people confidence in their utility was a common reason for support in allowing them into restricted lanes• the goal of reduced emissions will be achieved by more EV demand – this initiative will help incentivise others as it raises the profile of EVs• will help start something bigger, to open the door for other proactive strategies like financial subsidies• it is fair to reward EV owners as they are helping the environment but others felt that those who cannot afford an EV should also be incentivised if they carpool or take public transport (priority to discourage single commuters)• special vehicle lanes are concentrated in congested areas where noise and exhaust pollution are worst so incentivising people to | <p>Noted.</p> <p>This is just one part of the EVs Programme, which is package of measures announced by the Government in May 2016 that aims to increase the uptake of EVs.</p> <p>Refer response to item 302, 304 and 305.</p> |



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| | | <p>switch to EVs in these lanes is well targeted</p> <ul style="list-style-type: none">• good to enable the RCA to decide, as it will be different across the country• should include a sunset clause so that the policy can be reversed to allow flexibility if EV numbers create congestion in these lanes• there may be some negative sentiment to EVs as they may create congestion in special vehicle lanes• PHEVs could be running petrol or have low proportion of travel in EV mode and therefore misuse the lanes• will be hard to enforce these lanes and it may encourage non-EVs to game the system – may need increased investment in enforcement• low cost initiative, but not enough to encourage environmentally 'neutral' people to consider an EV• the initiative will create a safety risk for pedestrians: "Increased danger from stepping in front of quietly approaching EVs". | |
| 326 | GWRC | <p>Opposes clauses 16 and 17. This initiative has the potential to increase road congestion and negatively impact public transport services without providing significant time savings to electric car drivers.</p> <p>Some bus lanes (one type of special vehicle lane) already allow a number of other road users such as motorcyclists and taxis; allowing EVs will reduce the benefit to these existing users and have negative impacts to safety.</p> <p>This initiative may not result in significant travel time savings or be an effective incentive as EV drivers will need to merge back into general traffic flows when buses stop along the length of bus lanes.</p> | Noted. Refer response to item 304. |
| 327 | GWRC | <p>EVs are generally quiet, the safety risk to cyclists in particular will increase which may reduce the attractiveness of cycling.</p> | Noted. Refer response to 304. |
| 328 | GWRC | <p>It will be hard to enforce this initiative as it is hard to differentiate types of vehicles from a distance which may cause confusion amongst other road users.</p> | Noted. Refer response to item 305. |



| Item | Submitter | Submission | Officials' comments |
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| 329 | Jeannie Galavazi | Supports. | Noted. |
| 330 | Laurence Jenner | This initiative will not be effective on its own but supports it with a number of new additions to the Bill (refer item 014). | Noted. |
| 331 | LGNZ | The power to make bylaws to give EVs access to special vehicle lanes is already fully available. Clause 17 does not clarify this in any way. | Disagree. There are concerns that a RCA could not rely on the phrase "vehicles of other specified classes" in the current section 22AB(1)(r) for making bylaws relating to EVs, on the basis that phrase is informed by the references to buses and taxis immediately preceding it. This amendment deals with ambiguity in the interpretation of the current wording by effectively clarifying that the phrase "vehicles of other specified classes" is not limited by the references to buses and taxis. |
| 332 | LGNZ | Generally supports the proposal to enable, rather than require, RCAs to allow EVs to be used in special vehicle lanes. Balancing transport objectives requires adequate regulatory management and enforcement. For example, the challenge of distinguishing electric and hybrid vehicles from petrol vehicles in their use of bus lanes (particularly from a distance) and may cause confusion among other drivers about the purpose of bus lanes. | Noted. Refer response to item 305. |
| 333 | MIA | Supports the proposed changes in clause 16-17 in their entirety, along with all of the further Rule changes required to implement this policy. | Noted. |
| 334 | Michael Mellor | This proposal does nothing to address any of the barriers to the uptake of EVs. | Disagree. The measures implemented in this Bill are part of a package of measures in the Government's EVs Programme, which was developed with the aim of increasing the uptake of EVs. |
| 335 | Michael Mellor | Bus lanes exist to make bus travel more attractive by making bus services less affected by congestion, among other things. Bus lanes are also often used as cycle lanes, and increased and less predictable traffic such as EVs in such lanes is likely to create increased risk, discouraging use of that mode. This initiative may well increase overall congestion in places and | Noted. Bus lanes are only one type of special vehicle lane. Refer response to item 304. |



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| | | have limited effects on EV journey times due to congestion in the lanes currently (particularly bus lanes). Therefore, opportunities for this initiative in places like Wellington will be limited. | |
| 336 | Michael Mellor | RCAs are unlikely to make any great use of this initiative. Further to this, notes the comments of the Chair of Wellington City Council's Transport and Urban Development Committee about the initiative and in particular, that if some vehicles start using bus lanes because they are electric there is a greater risk that others which are not electric will do so too. | Refer response to item 305. |
| 337 | Michael Mellor | The proposal will cost money for little (if any) benefit. | From international experience (Norway, California), this initiative is understood to be one of the most effective non-financial incentives to help promote the uptake of EVs. |
| 338 | Michael Mellor | If the number of EVs increases to any great extent and they use special vehicle lanes, those lanes will become inefficient. In that case, the only rational response will be to remove EVs from these lanes (as is already happening in Norway). This may not be easy to implement, particularly if people have acquired EVs on the premise that they could be used in such lanes. | Noted. Refer response to item 302. |
| 339 | MTA | Oppose. This initiative is only applicable to those vehicles operating in the few cities that have special vehicle lanes. A single occupant into a high occupancy vehicle lane defeats the purpose of the lanes existence and will be hard to enforce (due to not being able to determine whether a vehicle is an EV or not). | Noted. Refer response to item 304 and 305. |
| 340 | Nelsust | This initiative is a poor way to promote the use of EVs because of its unintended consequences. It will make city congestion worse, by encouraging more people to car commute into the city. Allowing low occupancy vehicles of any type into these lanes must at sometimes slow up buses and high occupancy vehicles, making these less efficient, but also making these more sustainable transport options no better than single occupant driving in ordinary lanes. | Noted. Refer response to item 304. |
| 341 | Nelsust | Clauses 16 and 17 should be deleted from the Bill and replaced with a "feebate" on any vehicle sold, both new and second hand, | Disagree. Refer response to item 003. |



| Item | Submitter | Submission | Officials' comments |
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| | | whereby low pollution vehicles' selling price will be reduced by high pollution vehicles being charged extra. | |
| 342 | NZ Motor Caravan Association | <p>Do not believe that the source of the energy to power vehicles should be a factor that decides which vehicles may use special vehicle lanes.</p> <p>Special vehicle lanes were introduced to enable greater efficiencies for certain vehicle types. If, and when, the number of EVs reaches the anticipated numbers it will progressively impede the flow and efficiency of these lanes. Therefore, special vehicle lanes should remain solely for the use of those special vehicles except for emergency vehicles when travelling to an emergency.</p> <p>When special vehicle lanes are congested it will be necessary to remove the right for EVs to use these lanes and the operators of these vehicles will be reluctant to accept such a change.</p> <p>Granting EVs the right to these lanes will be a form of discrimination against those who are unable to afford to purchase EVs and who must therefore use the normal traffic lanes and suffer the delays caused by the congestion whilst those with EVs will be able to use the special vehicle lanes. This will result in greater congestion at the point where these lanes converge and therefore further slowing the traffic in the normal lanes.</p> <p>It therefore does not support clause 16 and 17.</p> | <p>Disagree. The purpose of the EV package is to support the move to a new form of vehicle technology which will reduce emissions overall.</p> <p>Refer response to item 302 and 304.</p> <p>The prices of EVs are falling and in many instances comparable to conventional vehicles.</p> |
| 343 | RCA Forum | <p>The power to make bylaws to give EVs access to special vehicle lanes is already fully available. Clause 17 does not clarify this in any way.</p> | <p>Disagree. Refer response to item 331.</p> |
| 344 | RCA Forum | <p>This initiative has the potential to increase road congestion and negatively impact public transport services without providing significant time savings to electric car drivers.</p> <p>Some bus lanes (one type of special vehicle lane) already allow a number of other road users such as motorcyclists and taxis; allowing EVs will reduce the benefit to these existing users and have negative impacts to safety.</p> <p>This initiative may not result in significant travel time savings to be an effective incentive as EV drivers will need to merge back into</p> | <p>Noted. Refer response to item 304.</p> |



| Item | Submitter | Submission | Officials' comments |
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| | | general traffic flows when buses stop along the length of bus lanes. | |
| 345 | RCA Forum | EVs are generally quiet, the safety risk to cyclists in particular will increase which may reduce the attractiveness of cycling. | Noted. Refer response to item 304. |
| 346 | RCA Forum | It will be hard to enforce this initiative as it is hard to differentiate types of vehicles from a distance which may cause confusion amongst other road users. | Noted. Refer response to item 305. |
| 347 | Stephen Crowsen | <p>Currently it is not easy for both law enforcement officers and other road users to distinguish legitimate lane users from non-legitimate users. One problem with this initiative is a problem with identification of EVs in respective special vehicle lanes. Suggests some sort of indication or label or insignia displayed on the front and rear of the permitted bus lane use vehicle, e.g. a Green Registration type label that shows that particular vehicle is entitled to use the bus lanes.</p> <p>Not all special vehicle lanes are the same e.g. there are different times when they operate as a bus lane or have a certain number of occupants allowed in them.</p> <p>Biggest concern is having EVs operating in a large bus stop + bus lane environment during times of severe congestion.</p> | Noted. Refer response to item 304 and 305. |
| 348 | Te Rūnanga | Supports the proposed amendment under clause 17. | Noted. |
| 349 | Trustpower | Content with clause 16 and 17. | Noted. |
| 350 | Vector | Supports. | Noted. |
| 351 | WRC | Supports the proposal to enable, rather than require RCAs to allow EVs to be used in special vehicle lanes. | Noted. |
| 352 | WRC | Several RCAs in its region feel that EVs are more likely to use special vehicle lanes during peak travel times, when the lanes are already losing efficiency by current vehicles using them. | Noted. Refer response to item 304. |
| 353 | WRC | Concerned that enforcement may not be practical once the criteria for use of special vehicle lanes expands to include an unknown variety of EVs. This may also cause confusion amongst the general public. It will be difficult for enforcement authorities to differentiate between EVs and non-EVs. | Noted. Refer response to item 305. |
| 354 | Departmental | Recommend that section 145 of the Land Transport Act is | This will improve an RCA's ability to enforce the correct use of |



| Item | Submitter | Submission | Officials' comments |
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| | submission | amended to permit an image taken by approved vehicle surveillance equipment to be evidence of the unauthorised use of a special vehicle lane. | special vehicle lanes. |

Part 4 – Amendments to the Road User Charges Act 2012

| Item | Submitter | Submission | Officials' comments |
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| Clauses 18-19 | | | |
| 401 | AA | Note that 81 per cent of AA members have said that the RUC exemption was either a 'small benefit' or a 'really important' reason for buying an EV (it is unclear whether this also includes the RUC exemption for heavy EVs). | Noted. |
| 402 | AT, Jeannie Galavazi, MIA, Te Rūnanga, Trustpower, Vector. | Supports. | Noted. |
| 403 | AT | The definition of a heavy electric RUC vehicle needs to be amended to include plug-in hybrid vehicles that meet a particular CO2 emissions standard or age limit so that benefits are being provided to those making a genuine emission reduction. | Disagree. The policy aim of this initiative is to encourage the move to vehicles powered by renewable energy, which are not currently widespread in the New Zealand market. Encouraging the development of this market will ultimately lead to greater emissions reductions. |
| 404 | Bus and Coach Association | Supports this proposal as it will significantly reduce the operating cost of electric buses. Electric buses (heavy EVs) will comparatively pay more RUC compared to diesel buses due to their greater weight for an equivalent vehicle. The RUC exemption will provide a significant reduction to the operating cost of electric buses – making them more commercially attractive. | Noted. |
| 405 | Bus and Coach Association | Critical that the expiry dates for this initiative provides enough certainty for operators to invest in electric buses. Buses are a long-life asset, with an expected operating life of 20 years. Furthermore | Noted. The Government sought to balance encouraging early adopters of heavy EVs with the overall expectation that road users pay for the roads. |



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| | | public transport service contracts commonly have a nine year term, so prices are locked in for a long period. | <p>A two per cent threshold was chosen by Government as an appropriate balance between providing an incentive to early adopters and the overall expectation that road users pay for the roads.</p> <p>The current heavy vehicle fleet is approximately 147,000 vehicles, so two per cent would be approximately 2,900 vehicles. It is uncertain when this threshold will be reached, so the initial exemption is proposed to be set to expire on 31 December 2025 (as agreed by Cabinet), but a review of the appropriateness of this expiry date is planned in 2019 (along with a review of the date of the RUC exemption for light EVs).</p> |
| 406 | GWRC | <p>Strongly supports the intent to incentivise uptake of EV technology amongst heavy vehicles.</p> <p>Understand the need to set thresholds for the RUC exemption but feels the threshold of having a minimum two per cent of heavy EVs should be higher.</p> <p>Given the make-up of the heavy vehicle industry, fleet purchasing decisions by a small number of major operators could achieve the two per cent target and could be a disincentive to uptake.</p> <p>The RUC exemption for heavy EVs should be applied for a specified time period, rather than contingent on achievement of a target, and a more ambitious target should be set.</p> | <p>Noted.</p> <p>Refer response to item 405.</p> |
| 407 | Jean Linda Gorman | <p>The two per cent proviso in this section of the Bill makes a mockery of the Bill's objective given any fleet with under 50 vehicles by adding a single vehicle makes their fleet already over the two per cent mark, and large fleet owners are likely to add more than one vehicle at a time. Submit that the two per cent provision be deleted entirely in order to genuinely encourage energy innovation.</p> | <p>The two per cent threshold applies to New Zealand's total heavy vehicle fleet, not any particular company fleet.</p> <p>Refer response to item 405.</p> |
| 408 | Laurence Jenner | <p>This initiative will not be effective on its own but supports it with a number of new additions to the Bill.</p> | <p>Disagree. See the comments numbered 700 and onwards for analysis of wider submissions.</p> |
| 409 | MTA | <p>Oppose. The purpose of the RUC Act (which is to impose charges on RUC vehicles for their use of the road). Note that no matter what its motive power, the damage caused to the road will be the</p> | <p>Noted. Refer response to item 405.</p> |



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| | | same due to the weight of the vehicle. Therefore, heavy EVs should still contribute to the maintenance of the roads. | |
| 410 | Peter Buchanan | Considers that the exemption needs to achieve a sustainable tipping point of 25 per cent before incentives are withdrawn. This would show the government's long-term intention that the majority of our transport fleet transition to electric. | Disagree. Refer response to item 405. |
| 411 | RCA Forum | Generally support measures to create incentives for the uptake of heavy EVs, but retains concerns over the practical application of this threshold. Having the two per cent target determining how long the RUC exemption remains in force is likely to be a disincentive to uptake after an initial rush. | Refer response to item 405. |
| 412 | RCA Forum | Note that the definition of a heavy EV 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. | Refer response to item 403. |
| 413 | RCA Forum | 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. | Refer response to item 405. |
| 414 | RCA Forum | 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. | The changes in this Bill are just one part of the EVs Programme, which is package of measures announced by the Government in May 2016 that aims to increase the uptake of EVs. |
| 415 | Stephen Fletcher | Some plug-in hybrids have a limited range of around 20km with the remaining (unlimited) range fuelled by combustible fuel. Suggest amending the definition of heavy electric RUC vehicle means a RUC vehicle with— (a) a gross vehicle mass of more than 3 500 kilograms; and (b) motive power: (i) wholly derived from an external source of electricity; or (ii) partly derived from an external source of electricity and petrol or other fuel on which excise duty or excise-equivalent duty is payable under the Customs and Excise Act 1996; or (iii) partly derived from an external source of electricity and with | Disagree. Refer response to 403. |



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| | | an all-electric range of greater than 60km. | |
| 416 | WRC | Strongly supports, however, allowing for a higher percentage of the heavy vehicle fleet before RUC apply to heavy EVs would provide a greater incentive. | Refer response to item 405. |
| 417 | Z Energy | Supports, but notes that there is risk that the proposed heavy EV definition could be exploited relatively simply by those wanting to evade RUC. It would be relatively simple to modify current diesel engine heavy vehicles so that their motive power was partly derived from an external source of electricity. | Disagree. The NZ Transport Agency must certify and register new or modified vehicles as meeting the requirements. We do not consider that there will be significant scope for individuals to falsify or imitate this capability. |
| 418 | Z Energy | The proposed definition of a heavy EV departs significantly from more traditional global definitions which typically refer to the vehicle's propulsion system being electric rather than focussing on the primary source of the energy. Some of the hybrid vehicles that wish to employ (which believe are a low emission vehicles) do not meet the proposed definition. Submit that a broader definition would extend to vehicles with hybrid power trains and this would have the benefit, at least in the short term, of accelerating the uptake of low emission heavy vehicles and contributing to better environmental outcomes. | Disagree. The focus is on using New Zealand's renewable electricity resource as a transport fuel, which means that hybrid vehicles which are not externally charged are excluded from these initiatives. |

Schedule 1 – Transitional, savings, and related provisions

| Item | Submitter | Submission | Officials' comments |
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| | | No submissions specifically on this part. | |

Matters not included in the Bill

| Item | Submitter | Submission | Officials' comments |
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| Submissions on matters outside the scope of the Bill | | | |
| 501 | ChargeNet | Generally supports Bill but consider that the legislative environment is unclear, with contradictory positions from primary regulators (the Electricity Authority and the Commerce | This point is discussion in paragraphs 106-113. |



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| | | Commission). | |
| 502 | ARPHS | Uptake of EVs in government procurement/private fleets will have the benefit of expanding second hand availability of EVs when those fleet vehicles are sold off and replaced. These fleet vehicles will be highly visible to the public which will show a strong lead by example message. | Noted. The New Zealand Government Procurement (NZGP) unit of MBIE has announced that fifteen EVs are now available through the All-of-Government (AoG) Vehicles contract. We anticipate as a result of this more agencies will purchase EVs for their fleets. Additionally NZ has the ability to source second hand EVs through existing used import mechanisms. Sixty percent of current EVs are used imports. |
| 503 | Bus and Coach Association | <p>The increased uptake of EVs will only address one issue related to private mobility – that is they have the potential to reduce emissions. However, there are numerous other issues related to society’s desire for personal mobility that are not addressed by EVs, including:</p> <ul style="list-style-type: none">• obesity caused by inactivity and automobile dependency• traffic congestion• sprawling land use• large areas of land in our cities dedicated to car parking, and• road safety impacts. | Noted. The Ministry of Transport has a number of initiatives underway that help address some of these issues, for example, the promotion of active modes of transport and the small passenger service vehicles review. |
| 504 | EEA | Recommend extending consultation process to all levies under the Energy (Fuels, Levies, and References) Act to improve transparency, especially for the electricity ‘safety’ levy. | Extending the consultation requirement is out of the scope of this Bill. |
| 505 | ERANZ | <p>Further work needs to be done by regulatory agencies to ensure that business has the confidence to invest. Have concerns that the market is being affected by the current regulatory settings around emerging technology, and seek a review.</p> <p>Has strong concern when regulated monopoly parts of the market (i.e. electricity distributors) are able to participate in competitive parts of the market, but not under the same competitive pressures. For example, others closer to the experience of owning, installing or co-ordinating the rollout of EV charging infrastructure seem to be erring on the side of need to make a clear determination that EV charging infrastructure are “installations” not “works”.</p> | Refer response to item 004 and 501. |



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| | | Recommends that the government facilitate a cross-agency (MBIE, Electricity Authority, Commerce Commission) assessment of the regulatory settings for EVs and other emerging technology in energy, to ensure an open, safe and competitive market can develop. | |
| 506 | Meridian | Aims to take a position of leadership to help educate New Zealanders about the benefits of EVs as a consumer and for the environment. Provides statistics and evidence to support this. | Noted. |
| 507 | MGUG | The current gas levy funds safety-related and inspectorate matters. These activities can be regarded specific to the transport of gas, and as such of a private nature. | Out of scope. |
| 508 | MTA | Suggests that the Government should consider encouraging local and regional councils to invest in electric buses. | <p>Noted. Local and regional councils make their own decisions to balance transport priorities and have the ability to stipulate the emissions requirements bus operators must meet.</p> <p>The Government's Low Emission Vehicles Contestable Fund provides access to funding – two relevant examples are the following two projects have been conditionally approved:</p> <ul style="list-style-type: none">• AT: Demonstration of an electric bus• Transit Group Ltd: Demonstration of an electric bus (in association with Auckland University of Technology) <p>More information can be found at: https://www.eeca.govt.nz/funding-and-support/electric-vehicles-programme/</p> |