Electrical Trades Union

Consultation on the Exposure Draft of the Critical Infrastructure Risk Management Program Rules

April 2026

1 May 2026

Acknowledgement

In the spirit of reconciliation, the ETU acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all First Nations peoples today.

Introduction

The Electrical Trades Union of Australia ('the ETU')[1] is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing well over seventy-thousand workers around the country. Our members are employed to work on critical assets subject to the *Security of Critical Infrastructure (Critical infrastructure risk management program) Rules (LIN 23/006) 2023* (CIRMP Rules) and will be directly impacted by changes to the rules.

The ETU welcomes the opportunity to respond to the *Exposure Draft of Enhancements to the CIRMP Rules* (Exposure Draft).

The ETU has previously engaged in consultation on legislation and subordinate legislation relevant to the security of critical infrastructure including (without limitation):

- a submission to the Joint Standing Committee on Intelligence and Security on the Review of the Security Legislation Amendment (Critical Infrastructure) Bill 2020;
- a submission to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) inquiry into the Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022;
- a submission to the Minister for Home Affairs on the Security of Critical Infrastructure (Critical Infrastructure Risk Management Program) Rules (LIN 22/018) 2022.
- a submission to the Minister for Home Affairs in initial consultation on the proposed enhancements to the CIRMP Rules, in February 2026.

As we stated in those submissions, the ETU recognises the importance of protecting our critical infrastructure, and the need to develop policies and procedures that seek to identify and mitigate personnel risks. However, these policies and procedures must also seek to appropriately protect the rights of people working on critical infrastructure.

Following this, and with regards to the Exposure Draft, while the ETU accepts the requirement that all those defined 'critical workers' are subject to an AusCheck, we retain concerns regarding the lack of rigour applied by operators of critical electricity assets to the definition of critical workers and in the categories of historic charges that are deemed of relevance to the identified risks.

[1] Being a division of the CEPU, a trade union registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

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The solution to this is not to resort to a more prescriptive approach that applies irrespective to the nature of the entity. Rather, operators should be required to actively engage workers and their representatives in the development of the risk management plan. As we detail below, it is the ETU's experience that a collaborative approach to the development of these plans results in more robust plans that can effectively manage the tensions between protecting the rights of workers *and* the security of critical infrastructure.

Companies implementing changes ahead of the consultation

ETU branches have already observed that several Transmission and Distribution Network Service Providers (Electrical CIOs) have made changes to their personnel security processes or are starting to consult on changes to their processes, ahead of changes being made to the rules. The ETU has engaged Electrical CIOs wherever possible in the development of CIRMPs for their enterprise. Many Electrical CIOs have engaged in constructive consultation with the ETU. Through such consultation, the ETU has observed an emerging best practice *with some CIOs* in which:

- The Electrical CIO applies consistent rigour to the definition of critical workers, supported by meaningful consultation with workers and their representatives, to capture only workers whose absence or compromise would prevent the proper function of the asset or cause significant damage to the asset.
- The CIRMP incorporates appropriate protections for workers' privacy.
- Workers are provided procedural fairness in the Electrical CIO's consideration of AusCheck assessable outcomes and in any suitability assessment for the purpose of s.9(1)(b) of the Rules.
- The Electrical CIO considers mitigation of adverse impacts to the worker, including options for redeployment or change in duties, before moving to stand-down or dismiss a worker due to an adverse suitability assessment.

By contrast, a minority of Electrical CIOs have anticipated the introduction of enhanced CIRMP rules by implementing an unprincipled expansion of CIRMP personnel risk mitigations, including by extending their definition of critical worker to include a broad cohort of employees not previously covered. Notwithstanding that the enhancements in the Exposure Draft do not amend the definition of 'critical worker', some Electrical CIOs have proposed extending the definition of "critical worker" to a significant body of field roles not previously covered. These are largely roles that do not have access to system controls and whose compromise would not prevent the proper function of the asset or cause significant damage to the asset.

These same Electrical CIOs have indicated an increased focus on historic charges identified in an AusCheck, even when it is unclear how an historic charge that is decades old may be relevant to identifying the specific security risks outlined in the Act and CIRMP Rules. The ETU supports the use of background checks for properly identified critical workers as part of the enhanced personnel hazard requirements for Electrical CIOs.[2] However, Electrical CIOs must take a principled approach to the subsequent suitability assessment,[3] to strike an appropriate balance

[2] Per s.9A in the Exposure Draft of the Security of Critical Infrastructure Legislation Amendment (Enhanced Critical Infrastructure Risk Management Program) Rules 2026 (Exposure Draft).
[3] Per s.9(5) in the Rules and s.9A(8) of the Exposure Draft.

between the identification and mitigating real and significant personnel risks and the protection of workers against unnecessary interference in their employment.

In these cases, the ETU observes that some Electrical CIOs are developing CIRMPs that reserve too much discretion to unilaterally determine and manage risks. CIRMPs are being applied without rigour or natural justice, in a manner that departs from the principles that underpin the CIRMP rules, specifically:

1. employers are taking too broad an approach to the identification of critical workers such that workers are unnecessarily subjected to background checks that impinge upon their privacy and other civil liberties;
2. additional protections are not being put in place to ensure that risk management programs and background checks do not infringe workers' rights to privacy and to organise and take protected action as well as union officials' rights of entry;
3. the appropriateness of risk management plans is not subject to challenge or review.

These issues are due to relevant workers and their representatives not having the right to be consulted in assessing risks to critical infrastructure and developing plans to manage those risks, and we are relying on the discretion of individual employers to include the union in these assessments.

ETU branches have sought to build collaborative relationships with Electrical CIOs, including through formal consultation structures underpinned by enterprise agreements, that have facilitated the active and constructive participation of the ETU and its members in development of CIRMPs. Good actors have acknowledged the role of the union as representing the rights of workers, and have incorporated in their CIRMP policy a role for the union in consultation and dispute resolution. Meaningful consultation has driven improvements in how Electrical CIOs are assessing the risks in their organisation, including how they define a critical worker, and how different categories of historic charges (and their timeframe) are considered in suitability assessments.

However, we note that even where these relationships have developed over time, it is vulnerable to a change in leadership at the CIO.

Need for best practice guidance

In the context outlined above, of an overzealous and inconsistent application of the CIRMP Rules by some CI Entities in the electrical industry, and the vulnerability of effective collaboration in the face of leadership changes, there is an urgent need for industry guidance to support TNSPs and DNSPs to develop their risk management plans.

The ETU welcomes the Department's commitment to developing this guidance for the enhanced CIRMP rules and, clearer guidance on the definition of critical workers, and a signal to industry of the need to protect the interests of workers, including through measures that ensure procedural fairness and natural justice. The guidance must also specify that entities consult with workers and their representatives in the development of CIRMPS. As described above, where the union and our delegates have been involved, the CIRMPS has more successfully managed the tension

of protecting critical infrastructure *and* workers' rights.

It is critical that such guidance is developed and monitored in collaboration with the relevant unions. The ETU recommends that the Department engage unions through the Trusted Information Sharing Network (TISN) for that purpose. Unions are a permanent feature of the workplace and have close familiarity with and interest in the personnel security policies of CI entities, especially as they relate to the suitability assessment of workers and related impacts to their work and ongoing employment. Unions have workplace access rights under the *Fair Work Act 2009* (Cth) and various WHS Acts, which CIRMPs must facilitate. Unions would be better placed to consult on and contribute to the development of robust CIRMPs with access to the information available to their industry group within the TISN.