



Submission to Essential Service Commission Victoria on the proposed Land Access Code of Practice

Friday 4 August 2023

Contact:

Tony Goodfellow
Victoria/Tasmania Coordinator

About RE-Alliance

RE-Alliance is working to secure an energy transformation that delivers long-term benefits and prosperity for regional Australia. We do this by listening to the needs of communities most impacted by the transition, facilitating collaboration across the renewables industry to deliver social outcomes and advocating for meaningful benefits for regions at a policy level.

We appreciate the opportunity to provide feedback to the ESC Victoria on the proposed Land Access Code of Practice (CoP).

Having clarity around complex land access legislation through a Code of Practice is a valuable initiative and it could create certainty and consistency for all stakeholders. We note the intent behind the proposed change is aimed at building social licence for the energy transition and looking after people in the process. This aligns with the work of RE-Alliance.

It is important to get the balance right — for delivery of projects in line with climate objectives and for the energy transition. We note that with Yallourn power station set to close by 2028, there is increasing urgency to ensure that the timeline for coal closure and transmission build are aligned.

In our view, a balanced Land Access Code of Practice should be designed to:

- Encourage parties to negotiate in good faith
- Incentivise voluntary agreements, and
- De-incentivise the application of statutory powers powers for shared grid infrastructure easements or infrastructure

We are concerned that the proposed ESC Land Access Code of Practice (CoP) will not deliver the above outcomes. As currently written and structured, we have serious concerns that it could:

- Delay critical renewable energy generation builds and critical transmission builds
- Lead to an increase in land access conflicts associated with critical transmission infrastructure
- Further safety and wellbeing risks to landholders, energy companies, service providers, government officials, community groups and members of the public
- Increase costs of delivering transmission projects through project delays, negatively impacting energy costs for all Victorian consumers.

In addition, we question whether the Energy and Water Ombudsman of Victoria (EWOV) is the appropriate entity to manage land access disputes for energy infrastructure projects.

The original intent of the new CoP was to address social licence issues for transmission projects.

In our earlier comments to ESC Victoria on this issue, we recommended that the Land Access Code of Practice would likely require the following to address land-access related social licence issues for transmission projects:

- An independent body for complaints and dispute resolution and access triggered under section 93 of the *Electricity Industry Act 2000*.
- Clarity on the steps for engagement and expectations for landholders and the proponent. By which we meant consistency and clarity so landholders can expect the same approach
- Complaints and disputes regarding land access need to be responded to in a timely manner through an appropriate entity.
- A review period designed in so that stakeholders can evaluate the CoP and the government is able to make necessary adjustments.

In light of the proposed Code of Practice, we provide extensions to those earlier comments:

- The Code of Practice should ensure that incentives for voluntary agreements to be entered into remain and are not diminished by the new Code.
- While EWOV is an independent body for customer disputes, we question whether they are the right body for *land access* disputes. We recommend that alternative options for an independent body to manage these types of disputes be considered. One option could be an independent body chaired by the ESC which could assess proponents' applications to use compulsory acquisition powers.

- Expectations for transmission project proponents and landholders should be made clear regarding fairness, consistency, appropriate behaviour and escalation pathways.
- Issues and concerns related to land access require specific and timely response. Issues other than land access may be more appropriately directed to the Australian Energy Infrastructure Commission. How this can be better managed, requires further consideration and refinement.
- An iterative review period to ensure best practice is vital. Ensuring that adjustments to the Code of Practice can be made over time in response to practical experience is critical. Justifications for these adjustments need to be transparently communicated by the relevant, responsible authority. This authority may need to be directed to have regard to the independent body for managing complaints (as noted above). We urge an evaluation of effectiveness after 12 months.
