



# Submission for Essential Service Commission Land Access Code of Practice

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**Contact:**

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**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 thank the Essential Service Commission for the opportunity to comment on the Making a Land Access Code of Practice (CoP) in Victoria.<sup>1</sup> It is in the interests of the public to build new transmission in a timely manner in line with a safe climate while affording landholders and proponents rights and responsibilities under a Land Access Code of Practice.

We have several overarching comments. The Land Access Code of Practice needs to have:

- specificity and clarity for parties,
- a review period,
- an independent body for complaints and dispute resolution and access triggered under section 93 of the *Electricity Industry Act 2000*
- health and safety of landholders and those accessing land on behalf of the proponent and farm biosecurity needs to be protected.

In addition the CoP should only apply to new large scale transmission.

**Clarity**

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<sup>1</sup> Essential Services Commission, Making a Land Access Code of Practice: Consultation Paper <https://www.esc.vic.gov.au/sites/default/files/documents/Making-a-Land-Access-Code-of-Practice-Consultation-Paper-20230202.pdf>

The Australian Energy Infrastructure Commissioner: 2021 Annual Report<sup>2</sup> identifies the need for clear land access protocols to assist land owners:

“The need for clear and consistent protocols for working with landholders, such as land access protocols that must be followed by proponents when accessing landowner properties for surveys/investigations..

In the event the landholder does not grant consent to land access, proponents may be able to rely on legislation that permits the proponent to access the land under certain conditions. Such legislation requires the need for a protocol or access code of conduct to be in place that the proponent must follow prior to and when accessing the land.

The protocol may either be developed by the relevant regulator or, in some cases, by the proponent – ideally, in the latter case, endorsed by the relevant regulator. The use of compulsory land access rights should be approved on a case by case basis by the proponent’s senior executives or CEO and include a properly prepared assessment as to why access is required and why compulsory powers are to be used and how.

We agree with the Australian Energy Infrastructure Commissioner about the need to have a clear and consistent land access protocol. Having clear steps for engagement and expectations for landholders and the proponent make accountability possible. The more specific the protocols are the better in practice.

### **Independent enforcement mechanism**

In the case where engagement fails and access is required under Section 93 there needs to be a trigger for access. We believe an independent body needs to assess whether the requirements under the land access protocol in the CoP have been met. If the proponent has met the requirements of the protocol then access can be granted. The body’s membership could include VicGrid, EWOV, the proponent, Essential Services Commission as well as others with expertise regarding farming and energy infrastructure. There needs to be incentives for proper conduct from the proponent and landholders and civil sanctions on denying access after the land access protocol in the CoP have been followed; or sanctions if the proponent does not follow the CoP.

### **Complaints**

The independent body could also be responsible for complaints relating to matters under the CoP. Complaints regarding access need to be responded to in a timely

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<sup>2</sup> Australian Energy Infrastructure Commissioner: 2021 Annual Report  
<https://www.aeic.gov.au/sites/default/files/documents/2022-07/aeic-2021-Annual-Report.pdf>

manner and relevant to the CoP and not out of scope. For example, broader political questions about social licence or project merits should not be assessed under the regime established by the CoP. Stakeholders should be encouraged to participate in the relevant planning process, i.e. the EES, and questions relating to EES handled by that process.

The independent body as described above would replace the Energy and Water Ombudsman (Victoria) for complaints and dispute resolution under the CoP.

### **Review**

We suggest that there needs to be a review of the CoP to assess if it meets the intention and appropriate adjustments made if they are not being met. A review of the CoP would be important for other jurisdictions that are in the process of creating land access CoP.

### **Biosecurity protections/Health and safety**

The CoP needs to ensure that the health and safety of all parties is protected and that farm biosecurity is managed appropriately.