

Submission to the Land Access Code of Practice Consultation Paper

Submission received through Engage Victoria

From 2 February to 3 March 2023, the commission accepted submissions on our Land Access Code of Practice consultation paper via Engage Victoria. Stakeholders were also able to provide feedback through answering survey questions. We are using the responses to these questions to inform our thinking when developing the draft Land Access Code of Practice.

Only questions where a response was provided are included.

Date submitted: 25 February 2023

Name: Michael Harkin

Stakeholder/interest group: Community

Q2. Compared to the principles set out in the Statement of Expectations, what should the Code of Practice have more prescriptive obligations for?

Commercial interactions. Transmission companies are partnering with Landholders for 40+ years and they should recognise the reasonable time and effort that Landholders put into the negotiation process. Often the Landholder will be fully aware that their intellectual property is contributing to the successful development of the line and yet no fiscal recognition is forthcoming. Pay for peoples time.

Q3. What specifically should be required of electricity transmission companies? What are the benefits and costs of having more prescriptive requirements?

Leading engagement through sec 93 is fundamentally flawed. Identifying that designing, surveying and defending is the way Electricity Commission did it and times have changed. Engagement, offering the ability to influence, visibility of selection criteria, transparency and openness, is the only way communities will embrace new infrastructure. Define whats in it for them early.

Q4. Do you agree that the Statement of Expectations covers enough scope?

Disagree

Q5. If the scope needs to be widened, what other activities should be included in the Code of Practice?

No change as Landholders understand that sec 93 has no remedial consequences. How do projects progress if the legislation designed to inform is unenforceable. The SoE is too prescriptive. Each Landholder has their own way of communicating. The SoE should be standard based not procedural. Accountability to a process is not necessarily prima facie evidence of doing the right thing.

Q6. What has your experience been with land access following the release of the Statement of Expectations?

Landholders are largely unaware of the SoE. Conformance to the SoE is one thing, giving the Developers access is another.

Q7. What do you consider are the most important issues related to land access under section 93 of the Electricity Industry Act 2000? How should these be addressed in the Code of Practice?

Essentially the Developer is self regulating. Meeting the requirements of the Code will not of itself lead to section 93 being effective. There is a need for an independent umpire to quickly resolve disputes and give rise to enforceable orders that either have the Developer standing down or the Landholder opening the gate (subject to agreed protocols). Without this the Code becomes something that Developers will be held accountable to, but not Landholders.

Q8. What other options should we consider in addressing these identified issues? Are there alternative elements to consider within the Code of Practice? What are the costs and benefits of these alternatives?

Developers should fund legal and professional assistance for Landholders who are challenging access. The amount should be reasonable, potentially based on a panel of experts and provided easily. The cost associated with informing and ultimately granting approval will mitigate the cost of dispute, ongoing security and poor efficiency of work. "Dispute is the erosion of possibility"

Q9. Are there any elements of the Statement of Expectations that need to be clarified in the Code of Practice?

No

Q10. What obligations do you think are needed to cater for the specific needs of private land such as biosecurity protections and processes?

These are well covered. Importantly they need to be reflected on Transmission companies operating within existing easements. This is a fundamental problem when developing brownfield lines. The experiences that Landholders have had with operations teams have been unsatisfactory.

Q11. What other options for complaint handling do you think when we're developing the Code of Practice?

As mentioned above, an independent umpire would help. Providing Legal and other professional services to Landholders would also be of benefit. Potentially centralise this to a regional level and provide consistent advice to all parties that standardises responses.

Q12. Is there anything else you want us to consider when drafting the Code of Practice?

Fundamentally, the Landholder needs to understand what's in it for me. Developers should be encouraged to provide indicative compensation options as soon as practicable. Their model should not be based on the LACA! You can only inspire the uninspired by wow factor.