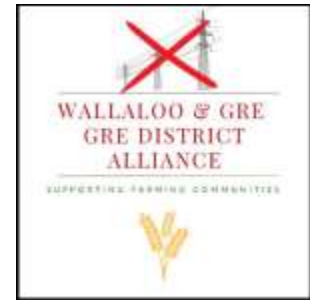


30th of October 2024



Transmission Company Victoria Pty Ltd – Application for Electricity Transmission Licence – Submission to the Essential Services Commission.

- Emailed to: Licences@esc.vic.gov.au

The Wallaloo and Gre Gre District Alliance welcomes the opportunity to make a submission to the Essential Services Committee in response to Transmission Company Victoria's application for an electricity transmission license.

The Wallaloo and Gre Gre District Alliance is a registered incorporated alliance, made up of landowners and community members adversely affected by the proposed VNI-West transmission project and associated renewable infrastructure. Our core members come from Wimmera communities such as Wallaloo, Marnoo, Gre Gre, Traynor's Lagoon and St. Arnaud, however we represent the interests of people from communities along the whole line, from Bulgana to Jerilderie. We are also part of the Regional Victoria Power Alliance. Our purpose is to represent the concerns of affected communities, and to protect them from the negative social, environmental and economic impacts of the proposed VNI West project, a project which we submit, has no merit.

In summary, we submit that TCV's application for an electricity transmission license should be rejected on the following grounds:

1. AEMO is breaching its own constitution by having its own company (TCV) apply for a transmission license; transmission is not within its role.
2. TCV has no intention of transmitting electricity and doesn't yet have a TNSP contractor to do so, which breaches the Essential Services Commission Guidelines. [Guideline: Applications for electricity and gas industry licences.](#)
3. TCV's financial viability breaches ESC guidelines, as it relies on charging consumers.
4. TCV and AEMO conduct, which we will submit are one and the same, renders AEMO's Board of Directors and Executive Leadership Team, including Merryn York (email address listed on the license application) not 'fit or proper' persons to hold a transmission license. [Transmission Company Victoria Pty Ltd – licence application | Engage Victoria](#)
5. The project has no merit, in terms of building reliability capacity and **affordability** in Australia's electricity network, which is one of the arguments TCV makes in support of its application for a license.

Submission:

1. We contend that any application made to the ESC for a transmission licence by TCV as a wholly owned subsidiary of AEMO directly contravenes AEMO's Constitution and its functions under the NEL, NER and NEVA:

In summary:

- Under the NEL and NER, *"Australian Energy Market Operator or AEMO means Australian Energy Market Operator Limited (ACN 072 010 327)"*.
- Under the NEL and NER, AEMO does have a fundamental regulatory role for all NEM registered participants (including transmission network service providers, distribution network service providers, generators and retailers).
- Under the NEL and NER, AEMO is also the National Transmission Planner.
- Under the NEL Section 50H (below), which applies to Victoria as an adoptive jurisdiction, AEMO regulates when a declared transmission system operator (**DTSO**) can augment a declared shared network.
- A DTSO is defined under the National Electricity Victoria Act (**NEVA**) which applies the NEL and NER as law to Victoria. The NEVA states at Section 31 *"Declaration of declared transmission system operator: The Minister, by Order published in the Government Gazette, may declare a person who owns, controls or operates the declared transmission system, or a part of the declared transmission system, to be a declared transmission system operator."*
- Under the NEL Section 50D, a DTSO must enter into a network agreement with AEMO for the provision of electricity network services on the declared shared network.
- Under the NEL Section 50G, it is stated clearly that *"AEMO does not own, control or operate the declared shared network."*
- It is therefore a DTSO who is required to hold a licence to 'transmit' in Victoria under the Electricity Industry Act (**EIA**). AEMO has never been a DTSO in Victoria. We contend that AEMO also cannot ever be a DTSO in Victoria under the NEVA and NEL.
- None of these general functions or specific declared network functions under the NEL include that AEMO can, or is to, 'transmit' electricity, and there are good governance and other reasons as to why the market operator does not 'transmit' electricity.
- AEMO has a unique role as TNSP in Victoria but that role is to be "responsible for the planning of the Victorian transmission network" (from the link below). Not building it: <https://aemo.com.au/en/energy-systems/electricity/national-electricity-market-nem/nem-forecasting-and-planning/victorian-planning/victorian-transmission-network-service-provider-role>

With regard to Objects Section 2(b)(i) above, on 20 Feb 2023 and 27 May 2023 the Victorian Energy Minister issued two "VNI West and WRL" Ministerial Orders within which AEMO was conferred additional functions in relation to the VNI West and WRL projects in accordance with the National Electricity Victoria Act (NEVA) and the NEL/NER.

- None of these additional functions conferred to AEMO under these Orders include that AEMO should, or is to, 'transmit' electricity.
- No mention of Transmission Company Victoria Pty Ltd (TCV) is made in these Orders.

[NATIONAL ELECTRICITY \(NSW\) LAW - As at 8 May 2024 - Act 20a of 1997](#)

In fact, according to an email distributed by AEMO on 27 May 2023 which announced the publication of the VNI West Project Assessment Conclusions Report (attached), TCV was set up to undertake the detailed consultation needed to identify a final route required by the 27 May 2023 NEVA Ministerial Order. In this email it is also stated that *"as AEMO is the system planner and will not physically construct or own the transmission lines, we established TCV to make sure that commitments made in the early stages are captured and honoured across the life of the project."* This statement continues to be published on AEMO's website to this day.

TCV is wholly owned by AEMO, who are the sole shareholder. They share the same staff, including Daniel Westermann (AEMO CEO), and the same address (**refer to ASIC extracts attached**); We contend that any application made to the ESC for a transmission licence by TCV as a wholly owned subsidiary of AEMO directly contravenes AEMO's Constitution and its functions under the NEL, NER and NEVA. If in future TCV is sold or transferred in full by AEMO to a third party who may wish to 'transmit' electricity, it is only from that time, not earlier, that TCV ought be able to apply under the EIA for a transmission licence.

2. TCV has no intention of transmitting electricity and doesn't yet have a TNSP contractor to do so, which breaches the Essential Services Commission Guidelines. [Guideline: Applications for electricity and gas industry licences.](#)

The TCV website states: "AEMO has started a process to select a partner to work alongside TCV to continue to develop the VNI West project, assist with the completion of the early works, and to eventually build, own and operate VNI West..." "In September AEMO will release a tender to the Transmission Network Service Provider (TNSP) market to identify organisations with the capability and capacity to deliver VNI West in Victoria." [TCV - Transmission Company Victoria](#). Yet, on the license application they state: *Transmission Company Victoria Pty Ltd (ACN 665 119 068) (TCV) seeks a licence to transmit electricity in connection with the Victoria New South Wales Interconnector West project in Victoria (VNI West).*

Therefore, TCV should not be able to apply for a transmission license, as they have no intention of transmitting electricity. Moreover, TCV have not yet found a contractor, meaning the guidelines set out by the ESC simply cannot be satisfied: "If an applicant intends to meet any material aspect of the technical capacity requirements by the use of contractors (including contracts with related entities), it must provide information on the contractors' experience and expertise, and copies of executed contracts".

Given that TCV has no intention of building, operating or owning VNI-West, it raises the question of why an application for a transmission license is being applied for in the first place. It would seem to be a commercial decision, to make it a more valuable company for a TNSP to buy, and/or a mechanism for TCV to get onto peoples' land to conduct further 'early works', which again is not the purpose of a transmission license, which is only to be granted when the project is likely to proceed: "However,

applicants must be able to demonstrate that the activity for which the licence is being applied for is not merely speculative and there is a reasonable likelihood of that activity being undertaken". To add to this point, VNI-West still has to undergo an EES, consultation with landholders is still occurring (the preferred easement was only released on the 30th of October), there is significant opposition from local communities (see map below) and the tender process for a TNSP will not be finalised in the near future: therefore it would be premature to grant TCV a transmission license.

3. TCV does not meet the financial viability ESC guidelines, as it relies on charging consumers and because TCV has not been sold yet.

"Consistent with the requirements under the Electricity Industry Act 2000, the commission must not grant an application for the issue of a licence to sell electricity unless the commission is satisfied that, in the case of an application to sell electricity, the applicant is financially viable." (ESC guidelines).

According to TCV's license application and website, consumers will have to pay for this project:

"clause 8.1 of the VNI NEVA Order states that AEMO's costs in relation to the early works (to the extent not funded by governments) are recoverable through charges in respect of prescribed transmission services (ie TUoS);" This part of the order is unclear.

And the New Owner will have to prove its financial viability:

"In respect of the construction and operation of VNI West:

TCV will be a subsidiary of the New Owner, and the New Owner will be required to demonstrate that it is financially viable and has the financial resources to procure that TCV sustainably undertake the electricity transmission activity in several forums, for example (as mentioned above):" [Transmission Company Victoria Pty Ltd – licence application | Engage Victoria](#)

In clause 1.2.1 'Additional considerations for retail electricity and gas licence applicants' it states: "entry of the applicant into the retail market will promote the long-term interests of Victorian energy consumers with respect to the price, reliability and quality of energy." If consumers are having to pay for the 'early works' as stated above, this should be considered by the ESC in this license application. This point will be discussed in greater detail below.

"...VNI West, ultimately paid for by consumers" [TCV - Transmission Company Victoria](#)

Therefore, this license shouldn't be processed, a license should only be accepted from the 'New Owner' who will build and operate VNI-West. The fact that this would make TCV less commercially attractive shouldn't be considered in the decision-making process.

4. Since early 2023, the conduct of TCV and AEMO, which we will submit are one and the same, renders AEMO's Board of Directors and Executive Leadership Team, including Merryn York (email address listed on the license application) not 'fit or proper' persons to hold a transmission license under:

4.7. Fit and proper person: We will consider whether the applicant is a fit and proper person to hold a Victorian electricity or gas industry licence in deciding whether to grant or refuse a licence application. The concept of a 'fit and proper person' is established by common law and takes its meaning from its context, from the activities in which the person is or will be engaged, and the ends to be served by those

*activities. In considering whether an applicant is a fit and proper person, we will have regard to the applicant's **honesty, integrity and reputation**. These are relevant factors as they can inform an assessment of the likelihood of future conduct. In considering an applicant's suitability to hold an energy licence, **we will also consider the conduct of directors, office holders or any person with significant managerial duties or influence in the applicant. We may also consider the conduct of related bodies corporate or entities that can exert control over the applicant.** (ESC guidelines)*

As stated above AEMO owns TCV as it's 'ultimate holding company', the companies share the same address and staff, including Daniel Westermann (AEMO CEO and Director of TCV), Merryn York (AEMO Executive General Manager System Design and TCV DIRECTOR and the applicant for the license, given her email address is supplied on the application form), and Kathryn Bale (AEMO and TCV SECRETARY) (see ASIC extracts). Therefore, TCV and AEMO's conduct is both relevant for consideration as per clause 4.7 above.

AEMO/TCVS consultation with landowners and affected communities has been appalling from the very beginning: the first landholders heard of VNI West was in the media, and every update since, including the 'preferred corridor' has been released by the media before the company itself, demonstrating their lack of integrity honesty and reputation. [VNI plan leaked - 1089 3WM](#). Land liaison officers, specifically have conducted themselves poorly, harassing people, dropping information on back porches instead of delivering it personally, and hanging it on fences. See complaint and image below. This has rendered the Land Liaison Officers without integrity, reputation or honesty, thus making their 'Land Access Agreement' redundant.

There have been several occasions where AEMO/TCV have not turned up to community members or aborted them under false pretenses. [Landholder fury as proponents suddenly withdraw from VNI West community meetings - ABC listen](#)

At no stage can we see that AEMO/TCV have implemented any public feedback at any stage throughout this process. They have also been unable to answer questions adequately or provide adequate information at numerous meetings in the past 18 months, around important matters such as fires and insurance. For example, the first 'fact-sheet' released by TCV (see below) prohibited stubble burning. However, this has been removed in the updated version –[Farming with VNI West](#). leading to confusion about what can and can't be done under the lines. Similarly with insurance implications for landowners, we have raised questions around this at several TCV/AEMO meetings including at Kerang (4th of July 2023) and at St. Arnaud (15th July 2023), to which we have received no answer, aside from "we are looking into it".

AEMO and TCV also misrepresented their powers at local meetings claiming to have Section 93 powers, even making these claims on the radio, only to have to amend their literature (required to by the ESC) to state that they in fact did not. They then stated, in August/July 2023, that while they didn't have these powers, they had applied for a transmission license which would allow them to use those powers, which was also not true, as they have only recently applied for a license. [Misleading tactics used by transmission companies to dupe farmers - Victorian Farmers Federation \(vff.org.au\)](#)

AEMO and TCV have no social license along the route for VNI West, yet they continue to plough ahead, showing their complete lack of regard for communities. **Please see the map of the proposed line below and note that the red are landowners being asked to 'host' the line, who oppose the project and agreed to being a part of this map .** [Victorian farmers seething at final route of VNI West transmission network - ABC News](#)

Numerous complaints have been made about AEMO/TCV conduct to TCV and the AEIC, including the one below from April of this year which was made to TCV (we never received a response).

Dear TCV Complaints Department,

I write to you to lodge an official complaint against TCV and Land Liaison officer (Redacted for privacy). One of our members, (Redacted for privacy), expressly told (Redacted for privacy), during a visit to his family farm '(Redacted for privacy), on the thirteenth of December, not to visit his mother in town, as the land in question is no longer in his mother and father's names. Yet three weeks later, on the 6th of February (Redacted for privacy) visited her again. This is causing (Redacted for privacy) elderly mother great distress and constitutes harassment. (Redacted for privacy) will now be installing no trespassing signs pertaining to Section 9 (e), (f), (g) of the Summary Offences Act 1966, as will similarly affected persons.

We ask that this complaint be dealt with accordingly and that we be kept abreast with any progress. If the outcome is not satisfactory, we will escalate the complaint to the relevant authorities.

Sincerely,

Wallaloo and Gre Gre District Alliance Executive Committee members.

AEMO and TCV, including York and Westerman have also been dishonest by stating that VNI West will be cost effective in their literature, but admitting in a senate inquiry that it won't be: "*The VNI West project is a proposed new transmission link between Victoria and New South Wales that will help harness clean, **low-cost electricity** from renewable energy zones*" (TCV application).

*The VNI West project is a critical opportunity to increase the interconnection between New South Wales and Victoria which has been identified in the 2018, 2020 and 2022 Integrated System Plans prepared by AEMO. Targeted investment to increase the interconnection capacity between the two states will facilitate the efficient dispatch of new and existing generation and help maintain supply reliability in Victoria. **This is expected to put downward pressure on energy costs by lowering overall power system investment and dispatch costs across the National Electricity Market (NEM).** (TCV license application)*

Yet, during a Senate inquiry last week, when asked directly if the transition would deliver cheaper electricity, Westerman stated, "I can't guarantee that, no." [Renewables not cheaper, AEMO boss admits - Family First Party Australia](#). This issue will be discussed further below.

Simply put, Westermann, AEMO and TCV have misled the ESC in their application for a transmission license, and it should not be granted.

The conduct discussed above renders them 'not fit and proper' persons with no **honesty, integrity and reputation**.

5. To conclude, VNI West will not "promote the long-term interests of Victorian energy consumers with respect to the price, reliability and quality of energy."

VNI West is being built to transmit renewable energy; Westermann recently confirmed that there's "no guarantee" of renewables lowering energy prices for the consumer despite saying the contrary in AEMO/TCV literature including their Transmission License Application. Renewables also cannot provide baseload power, and an attempt to do so would threaten our energy security; transmission lines are also vulnerable to extreme weather events, which we've seen in Anaakie early this year, and Broken Hill in recent months. Therefore, VNI West does not meet this aspect of the ESC's guidelines. Moreover, consumers will be the ones paying for VNI West, "...VNI West, ultimately paid for by consumers" [TCV - Transmission Company Victoria](#) which is likely to have massive budget blowouts due to delays, supply chain issues and community opposition, which will mean the tower route will have costly deviations. The ISP that justifies the idea that renewables are the cheapest form of power is not a cost benefit analysis, to quote Nationals Senator Matt Canavan:

"What he's (Mr Westerman) saying is that if you set in stone (an) 82 per cent renewable energy target by 2030, net zero by 2050 ... if you take all those as a given, then what they're saying about going to renewables is the lowest cost pathway," Mr Canavan said.

"But you are cooking the books. I mean in the inputs to this model, they're saying that we have to get to 82 per cent renewables. So of course you're going to have to get to guess what, 82 per cent renewables. This is not, as I also confirmed, a cost benefit study of what is the cheapest way to deliver electricity to Australians.

"And that's why you're getting this conclusion that in fact actually, despite what we've been promised by the Labor Party, we're not going to get lower power prices for Australians because we haven't done a proper assessment of how could we deliver the cheapest form of power to Australians." [AEMO concedes there is no guarantee of lower power prices under renewables pathway after Labor spruiked cheaper energy bills for Aussies | Sky News Australia](#)

This renders AEMO/TCV's claims that renewables and VNI West will lower energy prices a fallacy.

AEMO'S ISP is based on current government energy policies, and the ISP does not consider the costs associated with delays, modifications and changes in energy policies and targets. As a result, the costs associated with the current ISP are not accurate, and over and premature investment on renewables and transmission is likely to occur, which is not in the best interests of the consumer.

AEMO has bound its ISP to Australia's 82% renewable energy target, which is unrealistic; this will cause over and premature investment in renewable energy and transmission lines and push projects ahead unnecessarily at the cost the consumer (which is in breach of NER 5.22.10). Again, the ISP assumes that government policies and targets will be achieved and fails to look at alternatives, such as nuclear.

Unlocking the power of Snowy 2.0 is one of the key justifications for VNI West and in particular selecting option 5A as the route: see extracts from AEMO's PAC-R below:

On 21 December 2022, the Federal Government and the New South Wales Government announced a \$7.8 billion deal to connect New South Wales' renewable energy zones (REZs) and connect Snowy 2.0 to the grid. The deal will back eight critical transmission and REZ projects, including VNI West, and is jointly funded by Rewiring the Nation (\$4.7 billion) and the New South Wales Transmission Acceleration Facility (\$3.1 billion)²¹.

With both options, while there is still significant capacity investment in all regions, some investment that had been needed in Victoria is no longer required, and other, more efficient investment in solar and storage is located in New South Wales and shared with Victoria when needed, noting that Victoria now

also has greater access to Snowy 2.0's deep storage. Improved interconnection and unlocked REZs with VNI West Option 5A are also generally forecast to reduce the need for investment in other NEM regions.

– From the mid to late 2030s, both options are forecast to avoid gas generation build in Victoria that would otherwise be needed for firming, due to the increased transfer limits between Victoria and New South Wales enabling more generation to be imported to Victoria to meet demand during times of low renewable generation, and providing Victoria with greater access to Snowy 2.0's deep storage.

Option 5A is forecast to generally avoid pumped hydro energy storage investment and to a lesser extent gas capacity in the NEM, and defer battery storage investment. This option is also forecast to result in deferring some 96 For the avoidance of doubt, all figures of this type in the PACR are showing the differences in cumulative capacity across the NEM, compared to the base case. 65 © AEMO 2023 | VNI West Project Assessment Conclusions Report Volume 1: Identifying the preferred option for VNI West Net market benefits wind and solar capacity investment. Less capital investment is forecast since Option 5A enables greater existing and future NEM generation diversity and more efficient utilisation of Snowy 2.0, although with similar capacity factors to the base case.

AEMO PACR: [vni-west-pacr-volume-1.pdf](#)

Snowy 2.0 is plagued with issues, therefore claims that VNI West will provide network benefits is false, again, not aligning with the ESC's guidelines: "promote the long-term interests of Victorian energy consumers with respect to the price, reliability and quality of energy." [Tunnel boring machine wedged in hard rock, leaving Snowy 2.0 hydropower project with new issues - ABC News.](#)

RECCOMENDATIONS:

We submit that the ESC should

Reject TCV's application for a transmission license on the basis that:

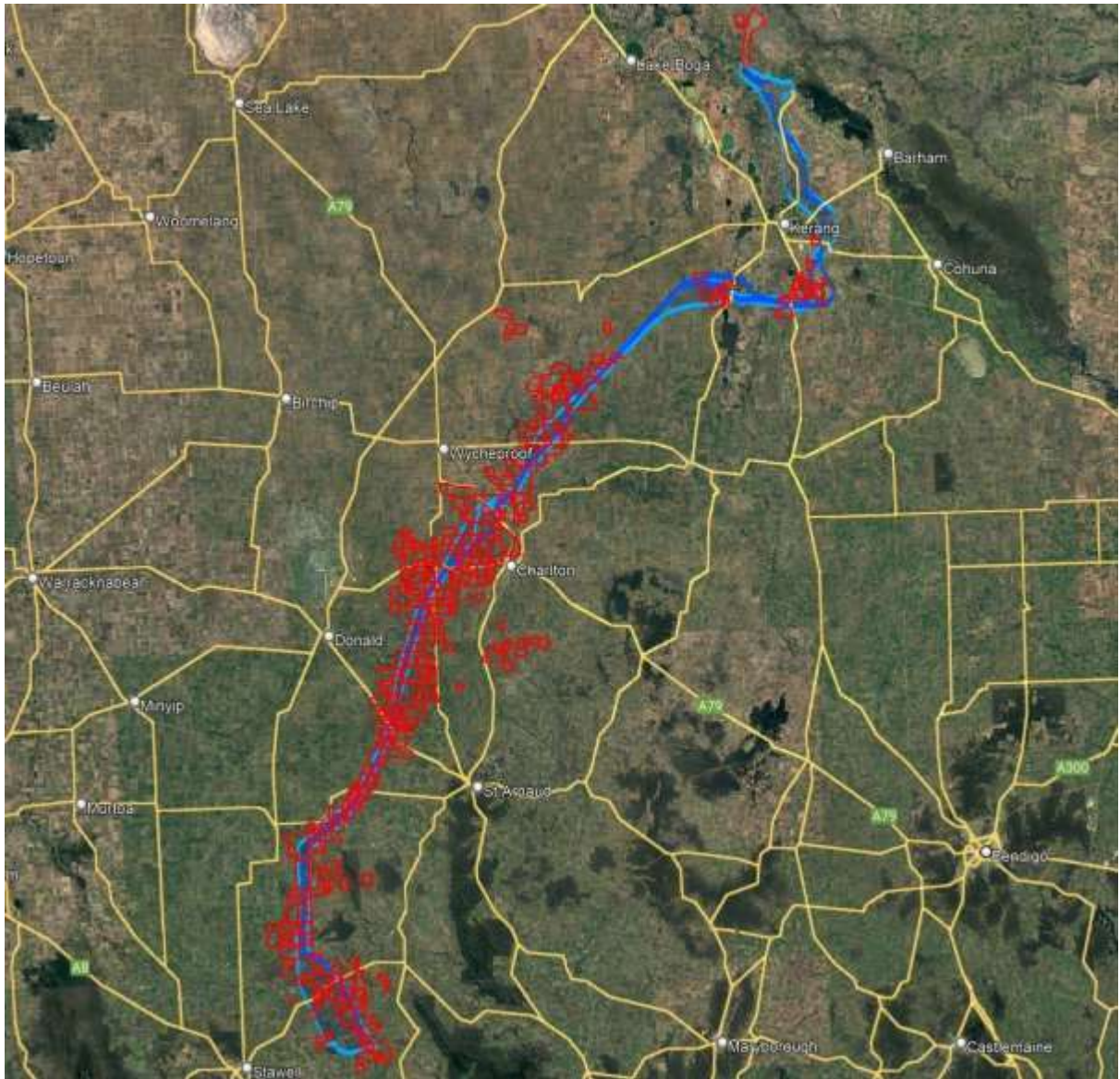
1. AEMO is breaching its own constitution by having its own company (TCV) apply for a transmission license; transmission is not within its role.
2. TCV has no intention of transmitting electricity and doesn't yet have a TNSP contractor to do so, which breaches the Essential Services Commission Guidelines. [Guideline: Applications for electricity and gas industry licences.](#)
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5. The project has no merit, in terms of building reliability capacity and affordability in Australia's electricity network, which is one of the arguments TCV makes in support of its application for a license.



Consultation

TCV fact sheet 2023

Crop Farming and Livestock Under Transmission		
Farming activity	500kV	Restrictions
Broadacre cropping	✓	Ground-growing crop types are allowed without requiring a safety assessment if earth movement change is less than 500mm in depth from the original profile. Ground-growing crops are permitted to grow within 5m of the tower steelwork, subject to obtaining permission from the TNSR and providing maintenance work is maintained.
Orchards	✓	Orchards are permitted within 500kV easements.
Trees and Shrubs	✓	Trees and shrubs up to 5m in height are permitted without a safety assessment. For vegetation above 5m in height, a safety assessment is required to ensure that minimum clearances and fuel load densities are maintained. Maximum height cannot exceed 8m.
Livestock	✓	Livestock are permitted within 500kV easements.
Farms sheds	✓	Domestic garages (non-habitable), carports, silos and garden sheds MAY be granted a permit from a limited distance onto the easement subject to a list of requirements being met. These include sufficient safety clearances to towers and overhead conductors, height restrictions, construction made largely of non-flammable materials and not attached to a dwelling.
Paddock fencing	✓	Non-metallic fences up to three metres in height. Metallic fences, or fences incorporating metallic materials must be suitably earthed and sectionalised and are subject to approval. All fixed metallic parts earthed and are subject to prior approval.
Stubble burning	✗	Thick smoke produced by bushfires can reduce the insulating properties of air in the vicinity of extra high voltage circuits and cause electrical flashovers to structures at earth potential. Therefore stubble burning must be controlled and monitored adequately and restrictively.



VNI West Map – Red is opposition landowners who have been asked to 'host'.