

Submission to the Essential Services Commission on the Timeliness of Electricity Connections

The Property Council welcomes the opportunity to engage with the Essential Services Commission (ESC) regarding the timeliness of electricity connections. The issue is already well documented, but to summarise, greenfield developments continually face unreasonable delays, costly and timely auditing processes and a lack of clarity concerning the regulatory framework governing electrical distribution businesses.

As the Victorian residential market enters a time of great uncertainty, consistency, clarity and cost-effective measures must be adopted by all stakeholders to deliver projects and get Victorians into their homes.

The Property Council of Australia

The Property Council is the leading advocate for Australia's property industry – the economy's largest sector and employer.

In Victoria, the property industry contributes \$45.1 billion to Gross State Product (12.4 per cent), employs more than 331,000 people and supports more than 400,000 workers in related fields. It pays more than \$21 billion in total wages and salaries per year, employs one in four of the state's workers either directly or indirectly, and accounts for 57.5 per cent of Victorian tax revenue.

The Victorian membership has more than 500 members. They are architects, urban designers, town planners, builders, investors and developers. These members conceive of, invest in, design, build and manage the places that matter most – our homes, retirement living communities, shopping centres, office buildings, education, research and health precincts, tourism and hospitality venues.

This submission is informed by many of the Property Council's key member representatives and expert committee members.

Executive Summary

The key points in this submission are:

1. Regarding timeframes of electricity connections, a mixture of approach C and D (as identified in the ESC consultation paper) is best. A mixture of the approaches allows flexibility and commerciality while ensuring accountability of all stakeholders.
2. There needs to be a greater degree of consistency in the interpretation of technical standards. Any changes to technical standards require engagement with the industry and need to be proactively communicated to stakeholders.
3. Distributors need to streamline the auditing process, be held accountable and work with the industry to deliver the final product.

Background

Within Victoria, there are currently two standards that apply to distribution businesses:

In Victoria, there are two regulatory frameworks that apply to negotiated, basic and standard connections. These are the national electricity regulatory framework under the National Electricity Legislation and the National Energy Rules and the Victorian electricity regulatory framework established under the Electricity Industry Act 2000 and the Essential Services Commission Act 2001. Both frameworks are established under Victorian law and apply concurrently.

Under Chapter 5A of the National Electricity Rules connections are classified as basic, standard or negotiated. One key difference between basic or standard connections and negotiated connections is that distribution businesses are obliged to publish Australian Energy Regulator approved model standing offers for basic connections on their websites, and may elect to have model standing offers for standard connection services.

Negotiated connections are more complex, 'non-standard', bespoke arrangements, with all terms and conditions negotiated directly between a developer and the distribution business and captured in a negotiated connection agreement.

Essential Services Commission. Timely negotiated electricity connections: Issues Paper. June 2020. p 32

As residential developments in greenfield areas are identified as 'non-standard', they are not beholden to the mandated timeframes for electricity connections present in 'standard' developments. As a result, developers enter negotiations with distribution businesses to connect new developments to the electricity grid. Currently, there is no obligation for works to be completed within a given timeframe.

The timeliness of electricity connections has been an ongoing issue for Property Council members and was most recently highlighted in our submission to Better Regulation Victoria regarding the Planning and Building Approvals Process Review. The Property Council has been represented on the ESC governance committee since it was founded in 2018. While we acknowledge that some improvements have been made, most improvements have not been material nor sustained.

Audit Process

Our members observe that there is a significant variance in audit outcomes dependent on which distributor conducts the audit. Between different distributors there is a lack of consistency and ambiguous standards. A range of interpretations of the standards by distributors results in this range of outcomes. For example, in AusNet areas, auditors will reject the real-time repair of cosmetic issues and require a re-audit. Distribution businesses are financially incentivised to conduct audits as they are charged on a per-visit basis.

The National Broadband Network (NBN) faced issues in the infancy of the program around the rectification of minor issues. Such issues would often cause stages of the program to be significantly delayed while they were rectified and the changes re-audited. To address this inefficiency, the NBN program allowed contractors to submit photographic evidence of changes rather than undergoing another audit. We recommend this approach which ensures accountability, while removing delays.

Technical Standards

The understanding of technical standards between Developer Project Managers (PM2), contractors and auditors is inconsistent. It is not uncommon for PM2s to undertake a 'mock' audit, using conservative assumptions, followed by a pre-audit recheck ahead of the final audit which is conducted by the distribution business on all above-ground assets and critical dig sites. The 'mock' audit is intended to identify non-compliance to be rectified ahead of the distribution business' audit. Despite the 'mock' audits and pre-audit recheck finding no faults, non-compliances are still found in the final audit. The failure in final audits highlights the inconsistent understanding which exists between developers, contractors and distribution businesses.

Case Study 1 – Changing Standards: Technical Drawings

“Communication is still poor in relation to changes of technical standards. As a recent example, an audit was undertaken at one of our sites in July and a stage was failed due to AusNet’s new standard around washers/bolts for entry pits. These changes to standards were not made clear in technical drawings.”

A contractor reported

“This is the first time we are constructing electrical works under the new standard and it’s not surprising that there will be some teething issues. The washers were installed on the bolts, however they were installed on the outside of the pits where the concrete is and not on the inside. The standard drawings do not specifically show a detail of where the washers are to be installed so I can understand the confusion. I am of the understanding that this is not a rare occurrence as Plan B have advised that a number of contractors have been receiving this N/C due to the misinterpretation of the new standards”.

Case Study 2 – Changing Interpretation of Standards: Bedding Sand

A developer used particular bedding sand. Powercor raised concerns with the bedding sand, deeming it non-compliant. The sand was eventually proven to be satisfactory following external testing and numerous analyses including National Association of Testing Authorities (NATA) testing and additional Powercor audits, all of which were at the contractor and developer’s expense. There was impact on cost, but more significantly, time, given the time of the financial year and impact on the developer and its purchasers, especially those whose finance was starting to expire and would have to reapply.

Reporting Portals

The submission of as-built drawings to distribution businesses has also become an issue since the introduction of online portals. The table below outlines issues experienced by developers in the submission process for each distribution business.

PowerCor	Powercor’s MySupply ‘as-builts’ submission portal causes time loss due to its current operation: there is a delay between when plans are uploaded and when someone within Powercor tends to the plan. Previously, plans were emailed to the Powercor project manager who would receive them instantly. While the portal itself works, it needs to be constantly monitored.
AusNet	When pulling out stages of the masterplan for tie-in, amendments to as-builts and similar processes effectively lock the PM2 out of the project for the design on subsequent stages. Approval of as-builts is currently completed offshore by AusNet’s CYIENT which results in lost time from submission, comments and final approval. Significant time differences between locations and the inability to call and talk through any contentious items cause these delays.
Jemena	Offers through the online portal expire prematurely resulting in scenarios where a developer needs to start again and have the offer generated manually. Apparently, Jemena is aware of this glitch and are doing a number of manual offers to rectify this.

Quality of Construction

Property Council members acknowledge the quality of constructions is an ongoing issue on the developer’s behalf. While developers endeavour to drive high-quality outcomes, they ultimately rely on the expertise of civil contractors, electrical contractors and PM2s to meet quality standards.

Constructing a robust high-quality network for distribution businesses often proves difficult due to a varied understanding of the technical standards amongst developers, contractors, PM2’s and auditors. Existing technical standards are either not understood, ambiguous, or poorly communicated.

To better communicate technical standards, the Victorian Electrical Distribution Networks (VEDN) should create an ‘instruction manual’. Such a document would guide VEDN contractors on exactly what is expected of them, highlight common non-compliances,

explain why they are doing something a certain way for the ongoing integrity of the network and how it relates to the technical standards.

Statement of Compliance

Obtaining a statement of compliance at completion is perceived to be a lengthy process. Stages can be held up due to cosmetic non-compliances which have no bearing on the integrity of the network. Concrete splashes and light pole issues, which are council assets, have prevented a statement of compliance from being issued previously. While non-compliances should be resolved, they should be linked to tie-in phase of a project rather than the statement of compliance. In operation, this approach would be similar to a civil defects liability period which holds the contractor liable to repair defects. The statement of compliance should be processed in tandem while minor defects are rectified.

Best Approach Considerations

A combination of approaches C and D offers a pragmatic outcome that ensures that distribution businesses are accountable to their committed timeframes while allowing flexibility. A combined approach also enables the regular review of the performance and controls the timing around what the eventual outcome looks like.

Approach C will ensure that the industry monitors, records and then implement measures to improve its performance for all stakeholders. We see approach C as a given for any business.

Approach D provides mandatory timeframes to the key processes. This requirement will provide the industry with much needed transparency with developers being able to plan projects accordingly with a set of rules in place for distributors, developers and their consultants. However, mandatory timeframes can be very restrictive for many reasons as they limit stakeholders in their ability to deal with challenges.

Approach A – Continued voluntary reporting on performance of negotiated connections

Voluntary reporting is reliant on distribution businesses' willingness to disclose results. Senior management teams should be mandated to report on an ongoing basis.

Approach B – Regulating performance reporting

If performance reporting were to be regulated, design approvals, auditing processes, audit results, approvals of as-built plans and tie-ins should be reported.

Regarding targets for regulated performance reporting, method A – which sets a maximum timeframe – is ideal. To ensure that distribution businesses are given adequate time to complete their final construction audit varied timeframes should be introduced. Varied

timeframes would ensure audits are proportional and appropriate to the number of lots in a development. Such timeframes should be set using historical data and should be subject to review on a rolling annual basis.

Reports should be undertaken on a bi-annual basis: data needs to be current enough while allowing most sites to go through the process. Annual reporting would ensure that all projects have completed the process, however, some issues may potentially be left too long for a trend to be noticed.

The positive of a maximum timeframe is that it drives accountability among the distribution businesses rather than depending on the commitment of senior management. However, regulated performance can also be too rigid. Our members predict a scenario where negotiating an outcome would be crippled by the Code and could become detrimental to both parties. Ultimately, setting regulated reporting targets will only be useful if they are adhered to and enforcement measures are in place for dispute resolution or any breaches.

The entity responsible for setting the maximum timeframe is also an important consideration. Depending on the responsible entity, an overly generous timeframe might be set, ensuring 'targets' are always met. Overly generous timeframes would not drive efficiency and would prove counterproductive as there is no incentive for distribution businesses to complete their reports before the end of the maximum timeframe.

Approach C – Review and improve negotiated connections process

We support all the obligations listed in the ESC report under approach C. ESC guidance implemented via the code is necessary for approach C to be successful. While some areas of guidance would not necessarily be enforceable, guidance would be enforceable from developer intervention into poor performance.

Most of what is listed in approach C is undertaken to some extent already, however, some Property Council members have reported they have not been notified of any updates since the last Powercor meeting at the Junction Oval at the beginning of 2020. To ensure the ongoing success of Consultative Committees all stakeholders need to be continually engaged. To reiterate, all the obligations listed under approach C should be kept.

Design approvals, audit performance, as-built approvals and tie-ins should be enforced through the Electricity Distribution Code.

Approach D – Regulating timeframes undertaken by the negotiated connections process

On approach D, the ESC should set maximum timeframes, however, these timeframes should be scalable and proportionate to the number of lots in a development. Legislated maximum timeframes would create greater certainty when industry plans projects.

A combination of approaches C and D will prove to be the most beneficial for all stakeholders.

Further Comments

On audit practices, there is minimal commentary in the ESC report, however, this is a significant issue for the property industry. The ESC should increase its focus on audits as both the time and cost delays can be substantial for developers. The ESC should facilitate industry involvement between distribution and developers to address audit practices. Stages on a greenfields development could be used as trial sites, allowing distribution businesses' audit process to be reviewed by the ESC and optimised accordingly.

Auditors and the inconsistencies that arise in their reporting is an ongoing frustration too. An auditor's interpretation of the standards, practicality and willingness to allow minor non-compliances to be addressed in real-time creates this inconsistency. The ESC should scrutinise distribution business auditors to ensure consistency. The VEDN should perform regular refreshers, under ESC guidance, for auditors, contractors and PM2s to ensure consistent and ongoing clarity around the technical standards.

Trench audits are also a key touchpoint. Distribution business auditors should attend trench audits to help identify potential non-compliances earlier in construction. Identifying issues earlier in construction mitigates or removes the need to excavate at the final audit, effectively leaving it as an above-ground audit.

Ausnet has a three-strike policy for final audits exceeding three months. The intent of the policy is reasonable, however, the approach to the three strikes for three stages in total is an issue. The purpose of this policy is to ensure developers reach and pass final audits within 90 days. For small developers with few lots, the policy provides flexibility. In contrast, larger developers producing a high number of lots in AusNet's jurisdiction are disproportionately affected by the policy. Smaller one-off developers are a higher risk to AusNet as the same number strikes applies regardless of development size giving smaller developers more leniency. Ausnet's should change its position to apply on a per-project basis rather than three stages in totality, otherwise, the issuing of statement of compliances are delayed. Ausnet should categorise developers depending on their production levels within Ausnet's area.

The ESC should also mandate Quarterly Consultative Committee meetings for each of the distribution businesses. Property Council members found previous meetings to be beneficial as it gave stakeholders a forum to table any issues/concerns whilst also providing an industry update.

Acquiring certification for minor steps from distribution businesses, such as a substation plan, is also an ongoing issue for developers. Developers are often unable to process other parts of the design and planning stage of a project as these are dependent on the certification of other documents. Developers obtaining an engineering certification from distribution businesses is dependent on design approval for example which unnecessarily slows the process. To address this issue, distribution businesses should process different aspects of the planning stages in tandem, independent of one another. When all approvals from distribution businesses have been achieved for developers, then certification can be acquired.

The word 'risk' is mentioned once in the ESC report yet is the single largest factor behind the processes and behaviours of the distribution businesses engaged with. Risk management must be reflected in the process architecture proportionately. A relative understanding and alignment of risk mitigation versus process architecture should be considered. While issues identified by distribution business auditors need to be rectified, if they are minor, they should not have a disproportionate effect on the process.

To summarise the comments we have made above, we believe that;

1. industry should be engaged on audit practices with development stages to trial new processes;
2. strutting of auditors and education on practices is necessary;
3. auditors need to be present at trench audits, ahead of final audits;
4. Ausnet's three-strike policy should be proportionate to the size of the development;
5. Quarterly Consultative Committee need to be mandated;
6. certification of steps should be processed in tandem and not dependent on other irrelevant factors; and
7. risk management should drive process architecture.

Benefits of Implementing Changes

Inefficiencies experienced by developers in the electrical connections space also impact housing affordability and slows the immediacy of economic stimulus for the Victorian economy resulting from construction. While developers are awaiting results from an audit or are required to rectify an issue that could have been identified – they pay holding costs.

As identified in the Better Regulation Victoria Planning and Building Approvals discussion paper, the cost of delays in residential developments is \$180 per dwelling per day.¹ Across an entire stage with 100 lots, a delay of just one week can cost an additional \$126,000. If multiplied at scale, across all of Melbourne’s estimated 50,000 lots built in greenfield areas developments annually, that is an additional cost of \$63 million every year.² The Purchaser ultimately absorbs this cost as it is an unforeseen expense, impacting housing affordability.

Auditing delays and the preventable rectification of issues also affect the immediacy of stimulus resulting from construction. A National Housing Finance and Investment Corporation report found that for every \$1 million spent in construction, nine jobs were supported and \$2.9 million in industry output was generated.³ In the current pandemic environment, supporting construction jobs across the industry is more important than ever. On a \$100 million project, that is 900 jobs and \$290 million in economic output. The Federal Government’s HomeBuilder scheme means that generating economic activity in greenfields developments is particularly important for the property industry as it is a time sensitive stimulus measure. Keeping residential projects moving ensures the stimulus effect is delivered without delay, protecting jobs and delivering stimulus immediately.

The ESC should use its power under the Essential Services Commission Act 2001 to shorten timeframes and monitor the practices of distribution businesses. In particular, the *Essential Services Commission Act 2001 s.10(AA)(a)* gives the ESC the power “...to monitor and report on compliance by energy licensees with conditions of energy licences held by them and provisions of Codes of Practice...”.⁴ Accountability of distribution businesses will be ensured through monitoring and reporting on the compliance of licensees, driving productivity.

Victorian Government COVID guidelines introduced on 4 August 2020 have tightened working protocols on residential construction, further delaying projects. The ESC is in a position to leverage its powers to impose and regulate the compliance of electricity licensees. Given that construction can still occur, albeit at a reduced capacity, the ESC needs to exercise its regulatory powers to create the most productive environment for developers, distribution businesses and the Victorian economy.

¹ Better Regulation Victoria. Planning and Building Approvals Process Review: Discussion Paper. 2019. p.13

² Unlocking New Communities and Affordable Housing. Media Release. February 2020. [Cite.](#)

³ National Housing Finance and Investment Corporation. Building Jobs: How Residential Construction Drives the Economy. 2020.

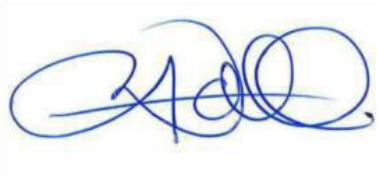
⁴ Essential Services Commission Act 2001. [Cite.](#)

Next Steps

We look forward to continuing to support the ESC in this review and would like to re-iterate our availability to provide expert industry knowledge where it is required to support a better understanding of the nuances of the industry and industry operation.

If you require further information or clarification, please contact Alex Harvey, Policy and Research Officer, on 0400 199 609 and aharvey@propertycouncil.com.au.

Yours sincerely,



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