

# Briefing Paper: VicGrid Stage 2 Reform Bill – Analysis and Recommendations

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## National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025

### I. Executive Summary

The National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025 (the Bill) will fundamentally and dangerously alter the governance of electricity transmission development in Victoria. While the Government presents the Bill as a necessary measure to accelerate the energy transition, it achieves this by dismantling democratic oversight, overriding property and civil rights, and entrenching a coercive state planning model — a model that has already failed.

The historical evidence, detailed in the accompanying forensic report, “*The Long Shadow of the Link*”, demonstrates that the top-down planning approach this Bill seeks to legislate has already resulted in catastrophic cost blowouts, multi-year delays, and a complete breakdown of community trust.

This Bill significantly:

- **Concentrates Power:** It merges the roles of planner, developer, regulator, and enforcer into a single state-controlled body, VicGrid, eliminating essential checks and balances.
- **Erodes Rights:** It grants the state unprecedented powers to enter private land without consent, use "reasonable force," and impose significant financial penalties on citizens for non-compliance.
- **Removes Transparency:** It explicitly exempts VicGrid from the *Freedom of Information Act 1982*, shielding its decisions from public and media scrutiny.
- **Destroys Social Licence:** By replacing negotiation and due process with coercion, the Bill guarantees escalated community opposition, ironically making it the single greatest threat to the timely and cost-effective delivery of the transmission infrastructure it purports to support.

**This paper recommends that Parliament reject the Bill in its current form.** At a minimum, it must be amended to restore democratic accountability, transparency, and the fundamental legal protections for Victorian landholders and communities.

## II. Introduction: The Legislative Endgame of a Failed Process

The Government argues this Bill is essential to build the transmission needed for Victoria's energy transition. However, this legislation cannot be viewed in a vacuum. As detailed in the accompanying report, *The Long Shadow of the Link*, it is the legislative culmination of a decade-long planning failure on the Western Renewables Link (WRL) and VNI West projects.

That process was defined by a cost-benefit framework that explicitly excluded community impacts, a tender process that gagged bidders from speaking to landowners, and direct political interference via Ministerial Orders to bypass national regulations and shield flawed projects from re-evaluation. When this flawed process inevitably failed, leading to massive delays and a tenfold cost increase on the WRL, the state's response was not to reform the process, but to legislate more power. This Bill is that response.

## III. Core Legal and Democratic Failures

### 1. Unprecedented Concentration of Power without Accountability

The Bill transfers transmission planning functions from the national market operator, AEMO, to a new state-controlled corporation, VicGrid. This is not a simple administrative transfer; it is a radical concentration of power. VicGrid is empowered to be the planner, developer, regulator, and enforcer of Victoria's most significant infrastructure projects. It will:

- Plan the transmission network through the Victorian Transmission Plan.
- Procure and carry out "early works" on projects.
- Act as the gatekeeper for grid access by issuing or revoking "grid impact" and "REZ scheme authorities".
- Administer community benefit and landholder payment schemes, determining eligibility for compensation.

This consolidation of power is dangerously amplified by **new Section 16ZHA**, which allows the Minister to issue "Special Orders" to amend project rules without any requirement to consult key stakeholders or even publish reasons for the decision. This creates a legal black box, allowing the rules to be changed by Ministerial fiat to serve a political agenda, as was done for WRL and VNI West.

The Bill creates a legal architecture that centralises multiple critical roles within VicGrid, planner, developer, regulator, and gatekeeper to grid access, without separation of powers, independent review, or safeguards against political interference.

#### Key Provisions:

- **Clause 12** amends Section 53 to assign VicGrid broad "REZ planning functions" without statutory transparency or consultation obligations.
- **Clause 7** inserts new **Section 16ZP(4)(d)**, allowing VicGrid to initiate and procure "early works" prior to planning approvals or public consultation.

- **Clause 33** grants VicGrid exclusive control over issuing, amending, and revoking "grid impact authorities" and "REZ scheme authorities", effectively controlling all access to the transmission network.
- **Clause 26** inserts **Section 16ZHA**, giving the Minister power to issue binding "Special Orders" without consultation, transparency, or parliamentary oversight.

#### **Consequences:**

- These provisions eliminate the essential checks and balances required for democratic and evidence-based decision-making.
- They create a conflict of interest by allowing VicGrid to set the rules and implement them without independent validation.
- There is a high risk of opaque decision-making, undermining both investor confidence and public legitimacy.

#### **Impact on Social Licence:**

This concentration of power creates a fundamental asymmetry between the state and impacted communities. By making VicGrid both the architect and arbiter of transmission projects, with no independent oversight or public explanation required, the Bill undermines procedural fairness and community trust. This will increase opposition, legal risk, and delivery delays, ultimately jeopardising Victoria's renewable energy rollout.

#### **Recommended Amendments:**

- Repeal **Section 16ZHA** to eliminate unchecked ministerial discretion.
- Amend **Sections 53** and **16ZP(4)(d)** to mandate transparent REZ planning and public consultation.
- Require independent review of VicGrid's plans and early works prior to authorisation.
- Amend **Clause 33** to ensure grid access authorities are subject to transparent criteria, public reasoning, and appeal rights.
- Establish an independent statutory oversight body to separate the roles of planner, developer, and regulator.

## 2. Erosion of Property and Civil Rights

The Bill systematically dismantles the rights of landholders, replacing consent and negotiation with a framework of forced entry and punishment. The government's own Statement of Compatibility acknowledges the Bill interferes with property rights and privacy but argues it is justified.

The new land access regime, inserted into the *Electricity Industry Act 2000*, allows:

- **Entry Without Consent:** "Authorised officers" can enter private land (excluding residences) simply by providing notice. The landholder has no right to refuse.
- **Use of Force:** If entry is hindered, VicGrid can apply to the Magistrates' Court for an "entry order" that explicitly authorises the use of "reasonable force to gain entry," the removal of obstructions, and the presence of police.
- **Criminalisation of Protest:** It becomes a criminal offence to "hinder, obstruct or delay" an authorised activity, carrying a penalty of 60 penalty units (currently over \$12,000). Notices of entry can be affixed to property, and it is an offence to remove them.

This regime transforms a civil planning matter into a quasi-criminal enforcement action on private land. It reverses the onus of responsibility, forcing citizens to comply with state directives on their own property under threat of financial penalty and police action.

The Bill introduces aggressive land access powers that enable VicGrid officers to enter private land, use force, and penalise landholders for resisting access, without requiring negotiation, consent, or independent adjudication first.

### Key Provisions:

- **Clause 65 (new Section 93BC)** allows VicGrid officers to enter land without consent, provided written notice is given.
- **Section 93BF(1)(d)** authorises the use of "reasonable force" to gain entry, including removing physical barriers.
- **Section 93BF(1)(e)** allows police accompaniment to enforce access.
- **Section 93BS(2)** criminalises any interference with VicGrid's access, imposing fines exceeding \$12,000.

### Consequences:

- Landholders are denied the right to negotiate or seek independent dispute resolution before facing enforcement.
- Communities are likely to view this as state-sponsored coercion, worsening tensions and reducing cooperation.

### Recommended Amendments:

- Repeal **Clause 65** to remove powers of forced entry.
- Insert a new clause requiring VicGrid to engage in good-faith negotiation and offer independent dispute resolution before seeking land access.

- Ensure entry powers may only be exercised if:
  - Negotiation has failed;
  - Independent mediation has been offered;
  - A ruling has been made by an independent tribunal or ombudsman.
- Remove **Section 93BS** to prevent the criminalisation of landholder dissent.

### 3. Systematic Removal of Transparency and Review Rights

Where power is concentrated, public scrutiny is most vital. This Bill does the opposite, systematically shielding VicGrid's actions from oversight.

- **Exemption from Freedom of Information:** The new **Section 55H** explicitly designates documents containing information related to VicGrid's core planning functions as "exempt" under the *Freedom of Information Act 1982*. This will prevent landowners, councils, journalists, and the public from accessing the evidence and analysis behind decisions that profoundly affect them.
- **Denial of Merits Review:** The Bill limits avenues for appeal. For example, it provides no access to merits review for VicGrid's decisions to disclose sensitive information related to its REZ planning and landholder payment functions. While judicial review exists, it is a costly and high legal bar that is inaccessible to most citizens.

The Bill shields VicGrid from basic democratic scrutiny by exempting key decisions from public access and limiting avenues for review.

#### Key Provisions:

- **Clause 14** (new **Section 55H**) exempts VicGrid planning documents from the **Freedom of Information Act 1982**.
- **Clause 7** (new **Section 16ZY**) blocks merits review for decisions regarding REZ planning and landholder payments.

#### Consequences:

- Communities, councils, and media cannot access documents explaining project decisions that impact landholders or the environment.
- Affected parties have no ability to appeal flawed or biased decisions through standard merits-based processes.

#### Recommended Amendments:

- Repeal **Section 55H** to ensure VicGrid remains subject to FOI obligations.
- Guarantee a right to full **merits review** for VicGrid decisions that materially affect individuals or communities.

## 4. Legislating a Broken Model Threatening the Energy Transition

The greatest fallacy of this Bill is the claim it will accelerate the energy transition. The historical evidence from WRL and VNI West proves the opposite is true. The top-down, coercive model this Bill seeks to entrench is the direct cause of the project failures to date:

- **Catastrophic Cost Blowouts:**
  - The estimated cost of VNI West has escalated from **~\$3.9 billion in 2023** to **~\$7.0 billion** (AEMO), with developer estimates of **~\$7.6 billion** and credible scope to range from **\$5.3 billion to \$11.4 billion**.
  - The estimated cost of the Western Renewables Link (WRL) — based on the per-kilometre rate now applying to VNI West (~\$16m/km) — has surged from an initial **\$370 million to over \$3 billion**, a tenfold increase that obliterates its original economic justification.
- **Major Delays:** Both projects have been significantly delayed as a direct consequence of the proponent's failure to secure social licence, itself the result of a planning process that disregarded community concerns.
  - VNI West has been officially delayed by two years.
  - The WRL—originally scheduled for completion in 2025 under the RIT-T—is now expected to be delayed by more than four years.

By legislating this failed model, the Bill will destroy social licence on a statewide scale. It will harden community opposition; guarantee protracted legal challenges and ensure every new transmission project becomes a battleground. Far from speeding up the transition, this Bill creates a blueprint for conflict, delay, and budget overruns, with Victorian households and businesses ultimately bearing the cost.

### Consequences for Development:

- A model built on enforcement, rather than engagement, will guarantee entrenched opposition across future projects.
- The perception of political interference, lack of transparency, and disregard for landholder rights will undermine the social licence required for timely delivery.
- Investors will be deterred by legal risk and community hostility, slowing Victoria's renewable rollout and jeopardising decarbonisation goals.

## IV. Risk Summary

Area	Risk
<b>Landholder Rights</b>	Loss of consent, forced entry, no fair negotiation or independent appeal.
<b>Legal Accountability</b>	VicGrid granted immunity from certain civil liabilities; landholders criminalised for obstruction.
<b>Transparency</b>	Statutory exemption from Freedom of Information laws; unchecked Ministerial powers.
<b>Regulatory Integrity</b>	Concentration of planner, developer, and regulator roles in one state-controlled body.
<b>Procedural Fairness</b>	No guaranteed merits review for key decisions; use of strict liability offences.
<b>Energy Transition</b>	Destruction of social licence, guaranteeing community opposition, project delays, cost overruns, and loss of investor confidence.

## V. Conclusion

Victoria's energy transition is a critical shared goal, but it must be built on a foundation of public trust, not coercion. This Bill offers a false choice between achieving our climate targets and respecting democratic norms. The evidence shows that abandoning rights, transparency, and fair process is not a shortcut to success; it is a recipe for failure.

This legislation grants a government-aligned agency sweeping powers while stripping communities of the fundamental protections that underpin a fair and democratic society. Parliament has a duty to reject this flawed and dangerous approach and insist on a model that builds infrastructure *with* Victorians, not against them.

The VicGrid Stage 2 Reform Bill must not sacrifice democratic safeguards in the name of expediency. With targeted amendments, Parliament can deliver a model of transmission governance that balances coordination with accountability, enabling Victoria's transition to clean energy without compromising public trust.

Energy Grid Alliance urges members of the Legislative Council to adopt the recommendations above.

Prepared by Energy Grid Alliance | [www.energygridalliance.com.au](http://www.energygridalliance.com.au)

## Cited Works

- National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025, Introduction print – Bill, <https://content.legislation.vic.gov.au/sites/default/files/bills/601148bi1.pdf>
- National Electricity (Victoria) Amendment (VicGrid Stage 2 Reform) Bill 2025, Introduction print – Explanatory Memorandum, <https://content.legislation.vic.gov.au/sites/default/files/bills/601148exi1.pdf>
- This briefing draws upon the forensic report: *The Long Shadow of the Link: A Forensic History of the Western Renewables Link and VNI West* (Attached separately)