



Essential Services Commission

'Electricity Transmission Company Land Access Draft Statement of Expectations'

Submission on behalf of the Moorabool & Central Highlands Power Alliance (MCHPA) in respect of the Western Victoria Transmission Network Project being undertaken by AusNet Services.

19 April 2022

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This submission is being made on behalf of the Moorabool and Central Highlands Power Alliance (MCHPA) which was formed in mid-2020 to advocate in support of landowners, residents, businesses, and community groups concerned about the many adverse impacts of the Western Victorian Transmission Network Project (WVTNP) and overwhelmed by the poor treatment they have received, and continue to receive, from AusNet Services (AusNet) and its agents.

The MCHPA is an incorporated association and acts as an umbrella group to the many local action groups, several also with Power Alliance in their names, that have formed from one end of the 190km length of the project to the other. The MCHPA is entirely run by volunteers and operates several Working Groups - Legal, Technical, Campaign and Fundraising - and runs a public campaign called 'Stop AusNet's Towers'.

We welcome the opportunity to make this submission on the *Electricity Transmission Company Land Access Draft Statement of Expectations* (the Statement) and greatly appreciate that the Essential Services Commission (ESC) delivered a public online webinar on the matter earlier on and has also held numerous online meetings with landowners and with members of the MCHPA and Energy Grid Alliance, as well as corresponding with many of us via email.

As stated in the ESC's 24 March Media release about this proposed Statement, 'significant upgrades to Victoria's energy transmission grid will be necessary for Victoria to transition to net zero emissions by 2050. But social licence for these upgrades is threatened when energy companies fail to engage in a timely and respectful way with impacted communities.'

This goes to the heart of the problems we have experienced with AusNet and its agents regarding all their actions in undertaking the WVTNP - at the outset they never sought to gain social license. This is most evident in AusNet's inability to gain voluntary agreements from private landowners to access their land for the required Environmental Effects Statement (EES) investigations and AusNet's consequent need to gain such access using powers derived from section 93 of the *Electricity Industry Act 2000* (the Act).

AusNet is extremely unlikely to ever be able to gain social license for this project, but we believe that the proposed Statement and its Principles, in advance of a Code of Practice, is a crucial piece of work that meets an urgent need for the development of thorough, transparent and accountable mechanisms for all transmission companies to follow to appropriately access land under section 93 of the Act. Furthermore, we believe that the ESC should require these companies to use the Statement and its Principles as a means for achieving voluntary land access agreements in the first instance.

Feedback on Questions Raised by the ESC in the online feedback template

1. What has worked well in relation to prior instances of land access?

In relation to the WVTNP and the actions of AusNet and its agents to gain land access, unfortunately nothing has worked well. Land access has been a fraught issue for almost two years because no appropriate or meaningful process for interacting with landowners and reaching customised voluntary access agreements was established by AusNet at the outset. We feel that all they have been focussed on from the beginning has been the land itself (as the location of the infrastructure) and not how they need to engage with the landowners reasonably and transparently.

Instead, AusNet Services' engagement with landowners regarding land access consent has been unendingly poor and we feel that it is important to explain this, and provide evidence, in our submission as much as give ESC feedback on the Statement because one gives context to the other.

The first contacts from AusNet occurred **May/June 2020** when some landowners received letters and subsequent phone calls expressing interest in gaining access to their land for a project none of us had heard about. We note that many of the letters were not addressed to the property itself but to addresses long unconnected with a landowner, and/or were addressed to long deceased persons, and/or were not received until some months after the dates on the letter. We also do not know how they accessed people's phone numbers.

The letters contained a rudimentary 'Consent to enter my property' agreement, with a minimal Access Protocol (an almost empty table), and landowners were offered a \$500 prepaid Visa card if they signed (later on, because few such agreements were signed, landowners were being offered \$1000 cards). These early documents allowed for land access to be given to multiple parties until **April 2022** (an almost two-year period if signed when first received). A redacted example of one of these 'agreements', which was given to a landowner in May 2020, is provided with this submission - see Attachment 1 in

Almost a year later AusNet Services began to offer to 'reimburse landowners for the legal costs of any independent legal advice they might seek with respect to the review and negotiation of the land access consent and access protocol up to a maximum of \$1,000.00 plus GST'. This offer was not made widely known and is now only publicly stated in a project document published in November 2021 - see p.11 in <https://www.westvictnp.com.au/assets/resources/Landholder-Guide-Land-access-easements-and-compensation-November-2021.pdf>

The initial engagement actions in mid-2020 set the pattern for a lack of meaningful process at every level of interaction with landowners from then up to the present day. Many landowners have experienced coercion, deception, and intimidation by AusNet and its agents over the last couple of years and to this very week, causing immense stress in what were already difficult times. This is not stated lightly or without evidence, which can be provided if required. We understand that ESC has already been supplied with a range of information, including videos, about such encounters which have continued to this day, even though ESC is in the middle of this process of establishing a Statement of Expectations for Land Access and seeking feedback on the draft.

2. What key challenges have you faced under current land access arrangements?

Key challenges have been:

- the inequity of the 'process' undertaken by AusNet and its agents to gain land access via 'voluntary' access agreements which have been open-ended and lacking in detail in most instances, and

- the reliance that AusNet has placed on the powers that they purport to have under section 93 to gain access if a signed agreement cannot be reached. This has led to the extreme situations now being experienced at farm gates where landowners are refusing access.

If landowners are not confident or informed enough to insist on an access agreement that suits their circumstances, they are essentially disadvantaged from the very beginning. AusNet has not been forthcoming with a process that is equitable and informs landowners of their rights. As mentioned in the response to the previous question it took a long time before AusNet began to offer to reimburse landowners for some of the legal costs of any independent legal advice they might require to help them in the review and negotiation of the land access consent and access protocol.

AusNet has also constantly failed to understand that each landowner will have specific needs for managing their land, most of which are agricultural and/or horticultural farms. These farms are active workplaces, and any one landowner impacted by the proposed route may have different activities on different parcels of land, and different safety and biosecurity and environmental impact issues to control.

We wish to submit a number of documents which demonstrate how two different landowners have been treated in the land access process. Both landowners had dealings with AusNet around the same period of time - from the second half of 2021 and into 2022 - and both ended up with AusNet enacting section 93 access powers resulting in intense farm gate confrontations and access denied.

Landowner 1 had numerous discussions with AusNet about his land access requirements (primarily instigated by the landowner) and after refusing to sign a voluntary access agreement he received a section 93 pre-access protocol (dated 1 February 2022) with an associated map explaining how, where and why his land was to be accessed - see Attachments 2a to 2c in [REDACTED]. Note that the number of people listed for access, 'support', and security for one day of ecological and Aboriginal cultural heritage surveys added up to a total of 19, with 9 of them being required to enter the property.

Landowner 2 was treated differently and was given far less information at all stages. AusNet Services used the 'four letter' process discussed below and we are submitting information re: Letters 3 and 4 and associated emails - see attachments 3a to 3k in [REDACTED]. Landowner 2 has hard copies of earlier correspondence and can provide that if required. Note that there were two identified landowner parties in this correspondence - ID 92 and ID 106 - who are in the same family group. Note also that the initial voluntary access agreements for both parties were to 'authorise employees, contractors, agents and consultants of AusNet Transmission Group Pty Ltd (AusNet Services) and AEMO engaged on the Western Victoria Transmission Network Project to enter my property until **1 August 2023** . . . ' for a variety of possible reasons. This is little different to the approach taken back in mid-2020, although the Access Protocol was somewhat more fulsome. The ID 92 properties are so far the only ones which have received sec 93 'Letter 4' and associated access protocol (dated 22 February 2022) which contained little of the detail provided to Landowner 1.

Regarding AusNet's process for gaining land access, this was first explained to the project's Community Consultation Group on **25 August 2021** in a 'Landholder Access Briefing' presentation - see Attachment 4 in [REDACTED]

On p.10 of the presentation AusNet explained they would be using a four-letter process, supplemented by phone calls and emails, for notifying and discussing land access requirements with landowners and for gaining voluntary consent.

Please note that the reason for access being required and the process for land access does not appear to have been intended to be mentioned by AusNet until Letter 2, while Letter 3 was intended to include

raising the matter of statutory powers (presumably section 93 of the EIA). Letter 4 was to be formal notification that such powers were to be used. As you can see from the Landowner 2 attachments, Letter 4 (attachment 3h) gave little more than generic detail about the who, when and where of the activities.

While it is not known how often this process has been used or if some landowners had already capitulated at an earlier date to authorise access, we do not consider AusNet's arbitrary processes, which are dependent on the ability of the landowner to protect their interests, to be acceptable.

3. What information do you consider you need prior to land access to feel comfortable with an exercise of a right to access land?

As already commented upon in our cover page (and discussed further on in this submission regarding Section 1.1.1), we consider that the Statement and its Principles should also be required to be applied to the drawing up of voluntary access agreements between transmission companies and landowners. Consequently, the following response applies to all stages that may be undertaken by a transmission company to gain land access.

To help set the context for all land access matters, we suggest that the ESC produce, as soon as possible, an information sheet which provides landowners (and any interested parties) with a clear overview of the land access process and their rights as well as an overview of the statutory rights for transmission companies, when licensed, to access private land.

The transmission company should be required to provide a hardcopy of this information sheet to the landowner at initial contact, at which stage seeking to achieve a voluntary access agreement should be the primary aim of the company. This information sheet should be accompanied by a hardcopy of the finalised ESC Statement of Expectations so that the process and expected behaviour by the transmission company is transparent and understood by the landowner. The transmission company should also provide the landowner with a hardcopy of the written verification from the ESC that the licensed company is the identified project owner and that their license is applicable to the project for which access, if not voluntarily agreed to, may be required under powers derived from section 93 of the Act. Furthermore, the transmission company should provide the landowner with hardcopies separate information sheets that clearly explain the privacy protocols to be used by the company ensure that it collects and maintains data strictly in accordance with privacy legislation, and the complaint and dispute resolution processes available to them and is endorsed by the ESC as appropriate under the relevant Dispute Resolution Clause in the company's license. All of this information should also be available on the project website.

This will serve to support all parties from the outset rather than have the piecemeal, inequitable situation of AusNet seeking to gain land access for the purpose of the WVTNP be repeated for further projects.

In our situation, and in the absence of any equitable access agreement process on land access being developed by AusNet from the beginning, the Legal Working Group of MCHPA undertook its own research on what a landowner might ask and require of AusNet. MCHPA, under the Stop AusNet's campaign banner produced a number of information documents over the year (January, July and October 2021) to help landowners understand - see attachments 5a to 5c in [REDACTED]

Although some landowners drew upon the information provided many were already overwhelmed by their previous interactions with AusNet and its agents, and fear and anger had already taken over - yet another example of how AusNet has not achieved social license for the WVTNP.

4. Do you think the principles of the draft Statement of Expectations on land access address issues of concern to you?

Generally, we consider that the draft Statement addresses issues that may be of concern to the landowners. However, we would like to bring your attention to the specific comments we have made in the feedback template form included further on in this submission. This form was provided to one of our members and we feel this is the best way to directly answer this question. We do suggest, however, that the column presently headed 'Examples' and already populated with information would be better described as 'Minimum Requirements for appropriate actions (as applicable to individual situations)', and examples provided against particular requirements if considered useful. We have discussed this further on in the submission against Section 2 - General Principles for Land Access.

5. What information do you think we should collect about a transmission companies' performance in relation to land access and frequency?

We consider that the Statement will not function as intended without there being a mandated requirement by the ESC for an electricity transmission company to report to them on how they are acting in accordance with the Principles set out in the Statement, and what the outcomes have been. This will ensure that the ESC continues to be engaged with how well the companies are meeting the ESC's clear expectations of them and provide for a feedback loop that can help mitigate and ultimately avoid non-compliance and situational difficulties with land access in a timely manner and also inform the development of a robust Code of Practice.

Realising that a reporting process for the Statement of Expectations could become cumbersome for the ESC to manage and monitor, we consider that it could be in the form of a regular summary from the transmission company to the ESC (fortnightly is suggested in the case of the WVTNP and the EES investigations currently underway, given the extremely problematic land access issues). This summary should identify what process/es have been followed to meet the requirements of the Principles and achieve land access, what interactions (letter, emails, phone calls) have occurred with landowners, if/how voluntary access agreements have been sought in the first instance, why access under section 93 has been required, and what information has been provide to the landowner at each stage.

There should also be a mechanism by which a landowner can comment/report directly to the ESC on their interactions with the transmission company. This could be via a simple pro-forma created by the ESC with questions of relevance to how the transmission company has met the expectations set out in the Statement.

6. Is there anything else you want us to consider when finalising this Statement of Expectations?

We would like to summarise our key recommendations:

- this Statement of Expectations and its Principles should be required by the ESC to be applied by electricity transmission companies to the drawing up of equitable voluntary access agreements as their primary aim, not just to apply it when a licensee intends to access private land under Section 93 powers
- to help set the context for all land access matters, the ESC should produce, as soon as possible, an information sheet which provides landowners (and any interested parties) with a clear overview of the land access process and their rights, as well as an overview of the statutory rights for electricity transmission license holders to access private land.
- before any contact is made with landowners the electricity transmission company should provide appropriate documentation to the ESC and seek their written verification that the licensed company is

the identified project owner and that their license is applicable to the project for which access may be required under powers derived from section 93 of the Act.

- at initial contact with a landowner the electricity transmission company should provide them, and any party with an interest in the land, with a hardcopy of the ESC prepared land access information sheet, a hardcopy of the finalised ESC Statement of Expectations, a hardcopy of the written verification from ESC that the licensed company is the identified project owner and has the appropriate authority to access land under section 93 of the Act if it becomes necessary, and hardcopies of separate information sheets that clearly explain the privacy protocols to be used by the company to ensure that it collects and maintains data strictly in accordance with privacy legislation, and the complaint and dispute resolution processes available to them and is endorsed by the ESC as appropriate under the relevant Dispute Resolution Clause in the company's license. All of this information should also be available on the project website.
- the ESC should mandate a requirement for an electricity transmission company to regularly report on their land access activities - how they are acting in accordance with the Principles set out in the Statement, and what the outcomes have been. This reporting process should also include the opportunity for landowners to report directly to the ESC on their experiences.
- the reporting process should be used by ESC as a feedback loop to help mitigate and ultimately avoid non-compliance and situational difficulties with land access in a timely manner and also inform the development of a robust Code of Practice
- the Principles in the table in Section 2 of the Statement of Expectation should be supported by the actions listed in the second column but the column should be renamed 'Minimum requirements for appropriate actions (as applicable to individual situations)', rather than 'Examples of actions by electricity transmission companies'. Examples could be directly listed under relevant requirements if necessary.

As a final comment we consider that AusNet's lack of social license for the WVTNP has been a fundamental problem from the beginning and is likely to continue to be so for the foreseeable future. We request that ESC gives some consideration to investigating if AusNet Transmission Group Pty Ltd ABN 78 079 798 173 (AusNet Services) is behaving in a fit and proper manner under their license with regard to the WVTNP.



Vicki Johnson

Member of MCHPA Legal Working Group

Feedback on the Draft Statement of Expectations within the feedback template form provided by ESC to a landowner in Plumpton.

Note that our comments are in *italic red text*.



Electricity Transmission Company Land Access Draft Statement of Expectations

Draft

23 March 2022



1. About this statement of expectations

Purpose

1.1.1 The objective of this statement is to establish the commission's clear expectations of Victorian electricity transmission licence holders when a licensee accesses private land under its powers derived from section 93 of the Electricity Industry Act 2000 (the Act).¹ Section 93 of the Act can be found in Appendix A of this document.

MCHPA Comments: We consider that the Statement would be of more value if it not only served to establish the commission's clear expectations of Victorian electricity transmission licence holders when using land access powers under section 93 of the Act but was also required to be applied to the drawing up of voluntary access agreements between licensed companies and landowners. We strongly believe that this would serve to promote effective and equitable engagement between transmission companies and all landowners and parties interested in land (as defined in the Act) from the outset and not just serve a situation where tensions are likely to be already inflamed.

1.1.2 This statement of expectations seeks to achieve a balance between the statutory right for electricity corporations to access private lands where necessary to provide their essential services, and the rights of those interested in the land affected by that exercise of power. It promotes effective engagement between landowners and parties interested in land² and electricity transmission companies as critical partners in the delivery of major energy projects, and provision of essential transmission services.

MCHPA Comments: as earlier discussed we recommend that the ESC produce, as soon as possible, an information sheet which clearly explains these rights to all parties along with an overview of the land access process.

Date of effect

This statement of expectations was published on dd/mm/yyyy.

¹ It is noted that the power under section 93 of the Act may be exercised by electricity corporations, which includes distribution companies, transmission companies and generation companies. This statement of expectations only applies to transmission companies at this time, though a future code of practice may have a broader scope.

² The term 'parties interested in land' appears in section 93(2) of the Act, and may include a tenant with a leasehold interest.

Application

- 1.3.1 This statement of expectations applies to holders of electricity transmission licences issued by the commission under section 19 of the Act (electricity transmission companies).

MCHPA Comments: We consider it crucial that before any contact is made with landowners the electricity transmission company should provide appropriate documentation to the ESC and seek their written verification that the licensed company is the identified project owner and that their license is applicable to the project for which access is required. This can then serve to establish from the outset that any future need to use section 93 powers is being correctly applied under the Act. This document should be provided to the landowner at initial contact as part of a package of information as discussed under the response to question 3 above.

- 1.3.2 This statement of expectations applies to land access by electricity transmission companies during all stages of a transmission project lifecycle (that is, planning, investigation, construction, maintenance and operation).

MCHPA Comments: While the WVTNP is presently in the EES investigation stage and access is presently being sought for that, landowners impacted by the WVTNP are already starting to receive emails from AusNet about setting up a meeting with an 'independent valuer' to 'outline the Valuation / Compensation process for your property if the Project receives approval to proceed'. AusNet states in such emails that 'it is our preference this is conducted on your property site with the Valuer getting a better view of your property and understand the unique way you manage it'. In light of this we consider that the Statement should also be used to apply to any land access activities that may be required during the easement acquisition stage.

The matter of access and impact on land use during the construction phase is also something that needs to be carefully considered for this Statement and during the development of a Code of Practice given that transmission companies may need to use adjacent parcels of land as work areas in support of their construction activities.

1.4. Changes to this statement

This statement of expectations is an interim measure, pending the commission's future development of a Code of Practice under Part 6 of the Essential Services Commission Act 2001 in relation to land access.

MCHPA Comments: While we understand that this Statement is an interim measure intended to establish a set of Principles which Victorian electricity transmission licence holders should have regard to in their interactions with landowners, we consider it critical that the development of the Code of Practice be commenced without delay and described as such in the Statement.

We also acknowledge that the development of a Code of Practice and its progress to an official status is a lengthy process. We consider that if the Statement is to be of value in the interim there needs to be a process established by which adjustments can be made in a timely manner to the Statement based on the feedback mechanism established within a mandated reporting process as well as on any feedback by landowners and their advocates.

1.5. Reporting outcomes

The commission may request an electricity transmission company to report outcomes achieved in meeting the expectations set out in this statement. This data and other information about how the expectations are being adhered to will be reported publicly and compliance levels will be taken into account by the commission in its approach to a Code of Practice.

MCHPA Comments: We note that the words ‘may request’ are used regarding ESC requiring reporting from an electricity transmission company.

We are concerned that without a robust and unequivocal reporting process being mandated in the Statement at the outset, transmission companies may feel that they are not obliged beyond an ‘expectation’ to act in accordance with the principles outlined in Section 2.

We are also concerned that the use of the words ‘may request’ could result in no reporting process being established over the life of the Statement thereby providing no oversight of a transmission company’s behaviour in their dealings with landowners to gain land access. Consequently, there will be no way to ensure that the processes used are respectful, reasonable, and transparent.

We realise that true enforcement of a company’s adherence to ESC’s expectations as identified in the Principles is not possible (only the Code of Practice will be enforceable) but without a useful reporting requirement there will be no feedback loop to measure and report upon behaviour or inform the development of the Code.

MCHPA comments - please see pp.2-6 in this submission

What has worked well in relation to prior instances of land access?	
What key challenges have you faced under current land access arrangements?	
What information do you consider you need prior to land access to feel comfortable with an exercise of a right to access land?	
Do you think the principles of the draft Statement of Expectations on land access address issues of concern to you?	
What information do you think we should collect about a transmission companies' performance in relation to land access and frequency?	
Is there anything else you want us to consider when finalising this Statement of Expectations?	

2. General principles for land access

The following table details general principles that the commission expects to apply to all instances of private land access undertaken by an electricity transmission company, together with examples of actions by an electricity transmission company to give effect to the principles

The commission also expects these principles to be applied as minimum requirements where an electricity transmission company accesses private land for transmission purposes under an agreement negotiated with a landowner, or with a person interested in the relevant land.

MCHPA Comments: We consider that ESC's presentation of the Principles in a table format under distinct sections is a clear and useful approach. However, we feel that while the information included in the 'Examples of actions by electricity transmission companies' column is generally useful, describing them as 'examples' rather than 'requirements' gives them far less weight as actions that, in most situations, should be applied by the transmission company as a matter of course. We recommend that this column be renamed along the lines of 'Minimum requirements for appropriate actions (as applicable to individual situations)'. Examples could be directly listed under relevant requirements if necessary.

Please also see Attachments 5b and 5c in [REDACTED] for a more detailed overview of what MCHPA has advised their landowners should be addressed in an access agreement or if they want to refuse access. We are pleased to see that many of these actions have been used in the table but when finalising the Draft Statement we request that the ESC look closely at the points made in these documents to determine if some need to be specifically included as additional principles, requirements or examples.

General Principle	Stakeholder comments
<p>1 Comply with this statement of expectations</p> <p>An electricity transmission company will comply with this statement of expectations, and with any additional access</p>	<p><i>How does ESC propose to monitor, measure and regulate compliance with the Statement of Expectations?</i></p> <p><i>Would ESC consider requiring formal documentation for all landowner interactions, signed or otherwise, be lodged with ESC at regular intervals? If the transmission company uses a standardised process in the</i></p>

<p>terms and conditions agreed in writing with landowners or parties interested in land.</p>	<p><i>first place this should not result in ESC receiving and overwhelming number of highly individualised documents.</i></p>	
<p>Approach to communication and engagement</p>	<p>Examples of actions by electricity transmission companies</p>	<p>Stakeholder comments</p>
<p>2 Ensure staged, timely engagement and consultation</p> <p>An electricity transmission company will undertake staged, timely, relevant and appropriate engagement and consultation with landowners and parties interested in land potentially affected by a proposed transmission project.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out. See under our response to Q.3 on p.4</i></p> <p>An electricity transmission company will:</p> <ul style="list-style-type: none"> • As early as is practicable in the planning process, publish details of the project, timeline, and key milestones • Outline the electricity transmission company's commitments and landowners' rights in plain English • Explain what landowner input is likely to be needed and why, and at 	<p><i>How is it expected that this communication will take place where in the example of the WVTNP the original 'Area of Interest' was 2000km²?</i></p> <p><i>See https://caportal.com.au/jbsg/ausnet/map and tick on the layers to see the changes over the past 1+1/2 years of potentially impacted land as the area of interest and corridors narrowed.</i></p> <p><i>At the earliest stage of the WVTNP any parcel of land could have been potentially affected by the proposed project but only some landowners received letters, and they indicated a distinctive line even then. Later, as the corridors were refined, potentially impacted landowners were not directly contacted.</i></p> <p><i>All communication should be direct to each potentially impacted landowner, preferably via registered mail. The transmission company must be required to accurately identify the present owner/s of land and their present most relevant postal address in the first instance.</i></p> <p><i>Advertising in local papers, via social media, via email newsletters etc are not personalised and may not reach affected landowners.</i></p> <p><i>How is the effectiveness of this communication to be objectively measured?</i></p>

	<p>what stages of the project</p> <ul style="list-style-type: none"> • Provide timely updates and additional details as necessary to inform affected stakeholders on project progress. 	<p><i>See also response under Q 3, p.4</i></p>
<p>3 Be accessible and responsive</p> <p>An electricity transmission company will provide affected landowners with an accessible point of contact in the company. They will be available to respond to questions and address issues promptly during all stages of a transmission project.</p>	<p><i>These should be identified as minimum requirements and then examples given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> • Provide a designated person, such as a ‘land liaison officer’, for each landowner. • Provide an emergency contact for outside business hours. 	<p><i>It is important for the ESC to understand that with the WVTNP AusNet has had great difficulty achieving this given the considerable turnover rates of the Land Access staff over the past two years. In the beginning the staff were experienced personnel from Jones Lang LaSalle (JLL) in Adelaide but few of these people remain and new liaison officers keep appearing and disappearing.</i></p> <p><i>Electricity transmission companies need to ensure the contact details provided are for staff who play a key role in managing land access and are trained to fully understand the Statement of Expectations and subsequent Code of Practice, as well as all inhouse documents and processes that should be developed by the transmission company in accordance with these ESC documents.</i></p>
<p>4 Use accessible, readable communications</p> <p>All electricity transmission company communication materials regarding land access must be readable and readily accessible by those affected by a transmission project.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> • Ensure all materials are written in plain English, concise and easy to follow. 	<p><i>As commented on against principle 2, it is important that any communication that relates directly to a given parcel of land be sent directly to the landowner or parties interested in land.</i></p> <p><i>Posting general material on websites and local papers does not always reach the intended audience. If social license is not gained from the beginning, as with the WVTNP, people won't sign up for newsletter</i></p>

	<p>Avoid use of legal language.</p> <ul style="list-style-type: none"> • Ensure all material is readily accessible. General information may be published on an electricity transmission company's website, notifications placed in local papers or other media where warranted, and letters sent to affected landowners. • Provide links to translation services in communications. 	<p><i>updates because they don't want to engage with the transmission company and therefore they may not receive critical information.</i></p> <p><i>In the instance of the WVTNP it has fallen to the MCHPA and local action groups to disseminate information by various means - websites, social media, community events, leaflet drops etc to ensure landowners are across what is happening. This shows that AusNet has significantly failed to engage with people impacted by the project, not just directly physically impacted landowner.</i></p> <p><i>Also, information on the WVTNP website is not readily accessible for visually impaired or hearing-impaired people. The majority of webinars do not have published transcripts as a matter of course. Earlier produced transcripts evidently used transcription software and provided a nonsensical record. These transcriptions have long been removed from the website and not replaced by accurate transcriptions.</i></p>
<p>5 Employ respectful two-way communication</p> <p>An electricity transmission company will communicate openly and honestly, and act respectfully and collaboratively with landowners and other parties interested in land affected by its proposed land access.</p> <p>Wherever possible, an electricity transmission company will incorporate landowner feedback into</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> • Conduct all communication collaboratively, sensitively and respectfully. • Ensure that anyone who engages with landowners from or on behalf of the 	<p><i>These are all commonsense requirements, but as we and many other landowners have already advised ESC, this has not occurred in the past and continues to be still not occurring to this day.</i></p> <p><i>Astonishingly the JLL employee Jamahl Waddington who is working for AusNet as the Project Director for Land Access for WVTNP produced these 'tips' for sensitively managing land access matters back in July 2015</i></p> <p>https://www.informa.com.au/insight/land-access-pittfalls-to-avoid/ <i>The behaviour that he recommends is not what we are experiencing.</i></p>

its decisions regarding proposed land access.

electricity transmission company has training in appropriate and effective stakeholder engagement, including on the principles in this document.

- Be flexible where possible to reschedule appointments if requested by the landowner.
- Adapt the mode and method of access if appropriate, if requested by the landowner.

For example, adjustments could be made to minimise harm when paddocks are wet, during critical seasonal production operations, or when a landowner is unavoidably absent from a property.

- On request from a landowner an electricity transmission

At the most basic level, AusNet is only incorporating landowner feedback into its decisions regarding proposed land access if the landowner has the knowledge and confidence (and often financial ability to obtain legal advice) to pursue a more equitable outcome. It has not been AusNet's default approach at the outset.

When it comes to a transmission company sharing information with landowners, will it be required that the landowners are made aware this is something they can ask for?

Furthermore, the use of the word 'should' and phrases 'where appropriate' and 'where able to do so' do not actually require electricity transmission companies to share this information with landholders if asked and is likely to result in non-occurrence.

It is important that engagement with landholders is transparent and their rights to understand what was investigated and determined on their land is shared with them. We understand some information may be commercial in confidence but at the very least, a summary report should be provided to each landowner related to the findings on their land.

	company should share the outcomes of its investigations with the landowner where appropriate and where able to do so.	
Process of communication and engagement	Examples of actions by electricity transmission companies	Stakeholder comments
<p>6 Identify and contact those affected</p> <p>An electricity transmission company will make diligent and comprehensive efforts to identify and contact landowners and others likely to be directly affected by its proposed land access.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> • Contact the registered landowner of the property to be accessed. • Contact persons occupying the property to be accessed. • Implement reasonable fallback measures when contact is not achieved or acknowledged (for example, making enquiries with neighbouring properties). 	<p><i>As commented on against principles 2 and 4, it is important that any communication that relates to directly to a given parcel of land be sent directly to the landowner or parties interested in land.</i></p> <p><i>Posting general material on websites and local papers does not always reach the intended audience.</i></p> <p><i>It is not considered appropriate for a transmission company to be given an example that they could make enquires with neighbouring properties about unconnected land ownership.</i></p>

7 Provide identification on contact

An electricity transmission company will ensure that anyone contacting landowners regarding land access (whether by phone or in writing) from or on behalf of the electricity transmission company, will clearly identify themselves and who they work for, and specify the purpose of the contact.

8 Outline access rights and obligations

An electricity transmission company will provide information on the rights of landowners' and parties interested in land in relation to its land access, as well as the company's commitment to meeting the principles in this statement of expectations.

An electricity transmission company will publish this statement of expectations on the electricity transmission company's website.

These should be identified as minimum requirements and direction given as to how these actions should be carried out.

- Direct stakeholders to this statement of expectations and to related published information.

This also appears to overlap with principle 2.

This matter is also discussed in the response to Q3 on p.4 - an information sheet should be prepared by ESC or the transmission company (as relevant) and hardcopies provided to potentially impacted landowners at initial contact. Such information should also be clearly available on the project website.

The Statement of Expectations indicates electricity transmission companies are to direct stakeholders to this statement of expectations and to related published information. The Statement of Expectations does not itself address what rights landowners have nor does it indicate whether landowners can seek independent legal advice and who pays for this advice.

9 Make clear when and why access is required

These should be identified as minimum requirements

MCHPA's information sheets in attachments 5b and 5c to this submission

An electricity transmission company will provide such information as is necessary for a landowner to understand when and why proposed access to the landowner's property is required.

and more direction, including examples, given as to how these actions should be carried out.

Explain:

- which stage of the transmission project lifecycle access relates to (that is for planning and investigations, construction, or for operation and maintenance of installed assets)
- the exact dates and times when access is sought
- the specific types of activities to be conducted on the land
- the purpose of access (for example, survey, physical investigation, photographs or works)
- the nature of proposed investigations (for example, soil composition, groundwater, flora, fauna, indigenous sites)

provide our response to this point and so does Energy Grid Alliance in its 12 April submission to this Draft Statement.

When finalising the Draft we request that the ESC look closely at the points made in these documents to determine if they are adequately covered in this Statement or should be incorporated into this table to provide additional principles, requirements or examples.

	<ul style="list-style-type: none"> the specified area or areas of land which are requested to be accessed the expected point or points of entry. 	
<p>10 Explain the processes involved</p> <p>An electricity transmission company will provide information on the processes and decisions relating to its action of land access for transmission purposes.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> Provide timely information to help landowners and parties interested in land to understand what decisions they can and cannot influence for a transmission project. This information should be provided in addition to the general information listed in principle 2. Explain interactions of the access sought with environmental, planning and other relevant government processes. 	<p><i>This seems to also overlap with principles 2, 8 and 9 and the comments against these principles are also applicable.</i></p> <p><i>Overall, we consider that it may be appropriate from the outset for ESC to require the transmission company to provide all the fundamental background information in a series of single subject, simple, plain-speaking and objective information sheets that cover no more than two sides of an A4 sheet and are not complicated by excessive graphic design elements.</i></p> <p><i>These documents should be provided to landowners as hardcopies wherever possible but also be clearly available on the project website.</i></p>

11 **Commit to details on how access will occur**

An electricity transmission company will consult with landowners on access details and commit to how access will occur. Where possible, landowners' preferences will be taken into consideration.

These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.

- Identify and agree where possible with the landowner the dates, times and expected duration of access. Identify the mode of access, whether on foot, by vehicle, or air (for example, using a drone).
- Identify what equipment will be used.
- Identify how many people are expected to enter the land on behalf of the electricity transmission company, and which company or organisation they represent.
- Commit to minimising attendance where possible and appropriate, generally only with those personnel necessary to

This seems to also overlap with principles 2 and 9 and comments against these principles are also applicable.

The electricity transmission companies should also identify what rights landowners have in relation to rescheduling access should circumstances change.

One issue that we are experiencing with the WVTNP is that there are excessive numbers of people being listed for some land access visits - many identified as 'support' and 'security' with few actual EES investigation consultants involved.

	<p>perform investigations or works permitted to access a property.</p>	
<p>12 Give reasonable notice of proposed access</p> <p>An electricity transmission company will ensure that notice periods and notice content (that is, providing details of activities) are reasonable. These must be proportionate with both the stage of the project, and with the potential impact on landowners and parties interested in land.</p> <p>An electricity transmission company will establish and publish minimum notice periods for land access during different stages of its transmission projects (that is, planning, investigation, construction, maintenance and operational stages).</p> <p>Where possible, notice periods and formats should reflect the landowner's preferences.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <ul style="list-style-type: none"> • Seek agreement on reasonable notice periods for access that reflect land use and timing requirements (for example, stages of crop growth, animal husbandry). • Establish a preferred protocol with landowners for providing adequate notice for access requests or changing of access requests (for example, email, phone call or letter). 	<p><i>This seems to overlap with principles 2 and 9 and comments against these principles are also applicable.</i></p> <p><i>The electricity transmission companies should also identify what rights landowners have in relation to rescheduling access should circumstances change.</i></p> <p><i>MCHPA also have knowledge of instances of land being accessed without landowners' knowledge or on days that the landowner has not agreed to because they have not yet moved animals or had farm activities scheduled that may have been dangerous to those seeking to access land.</i></p>
<p>13 Keep records</p> <p>In accordance with electricity transmission licences, an electricity transmission company</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p>	<p><i>The landowner should be advised by the transmission company that is a requirement of their license. The ESC should also require the company to provide these documents to the landowner if requested.</i></p>

<p>will maintain access-related records of its contact with landowners and parties interested in land for a period of seven years</p>	<ul style="list-style-type: none"> • Confirm verbal exchanges in writing. • Document all communications regarding access between electricity transmission company officers and landowners. • Make these communications available to the landowner upon their request. 	<p><i>The access-related records should include records of emails and dates and times and subject of phone calls.</i></p> <p><i>And as discussed against principle 14 below, AusNet Services and its agents are wearing body cameras and recording interactions with landowners. How are these records to be dealt with?</i></p>
<p>14 Maintain confidentiality and respect privacy</p> <p>An electricity transmission company will ensure that it collects and maintains data strictly in accordance with privacy legislation.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <p>Apply privacy principles to access-related information collected. This includes:</p> <ul style="list-style-type: none"> • only collecting information that is needed • protecting personal information • using personal information only for the purpose 	<p><i>As discussed in the response to Q.3, p4, a privacy protocol information sheet should be prepared by the transmission company at the outset and provide to all landowners.</i></p> <p><i>And the transmission company should adhere at all times to the principles in the policy. MCHPA know of circumstances where land access agents have told one landowner about the content and outcome of conversations with another landowner.</i></p> <p><i>In the case of the WVTNP, it has been noted that AusNet Services staff and/or representatives are wearing body cameras to record access events. It is important that if this is to occur, the electricity transmission company inform the landowner or parties interested in land that recording will take place on their private land. It is also important that landowners understand their rights with regard to recording events on private land and also understand what will happen with those recordings, where they will be viewed,</i></p>

	<p>that it was collected.</p> <ul style="list-style-type: none"> • Provide individuals with the right to correct their personal information if necessary. 	<p><i>archived, how and when they will eventually be disposed of.</i></p>
Managing impacts of access	Examples of actions by electricity transmission companies	Stakeholder Comments
<p>15 Minimise impact on land and landowners</p> <p>An electricity transmission company will take all reasonable measures to minimise the impact of its access on landowners and parties interested in land, and on the land itself.</p> <p>This reflects the company's statutory obligations in section 93 of the Act to do as little damage as possible, and to make full compensation to the owner and all parties interested in the land for damages they sustain in consequence of the exercise of access powers.</p>	<p><i>These should be identified as minimum requirements and more direction, including examples, given as to how these actions should be carried out.</i></p> <p>In exercising powers of access, an electricity transmission company will:</p> <ul style="list-style-type: none"> • cause as little harm, inconvenience and damage as possible to the land, as well as anything on or growing on the land • remain upon the land only for such a period as is reasonably necessary 	<p><i>This seems to also overlap with principle 9 and comments against this principle are also applicable.</i></p> <p><i>It is important that the transmission company clearly advise landowners about the compensation process if damage is caused by the company or its agents.</i></p> <p><i>The transmission company also needs to put a process in place to cover costs for business disruption, moving of stock and equipment, or agistment that may be required during the various phases for which access may be required. This is somewhat relevant at the present EES investigation stage of the WVTNP but will be very relevant to the construction phase (if the WVTNP is approved) if a Code of Practice has not yet been developed.</i></p> <p><i>Landowners also need to understand how they will be compensated for any biosecurity incidents as a direct result of electricity companies accessing their land (principle 18).</i></p>

	<ul style="list-style-type: none"> • remove all plant, machinery, equipment, goods or buildings brought onto, or erected on, the land on completion of access (other than any of those things that the landowner or occupier agrees may be left on the land) • leave the land— as close as possible— in the condition in which it was immediately before the land was accessed • use best endeavours to cooperate with the landowner and land occupier. 	
<p>16 Meet expected work standards</p> <p>An electricity transmission company will ensure that all its activities on the land are undertaken in accordance with all relevant Commonwealth, State and Local Government legislation. These activities are to be conducted in a proper,</p>	<p><i>Minimum requirements and direction, including examples, as to how these actions should be carried out should be provided.</i></p>	<p><i>This principle also overlaps with principles 17, 18, 19 and 20 - please see further comments against these principles.</i></p> <p><i>How and when is relevant legislation to be identified and how and when is a transmission company to ensure their employees understand their obligations and are adequately trained/inducted?</i></p> <p><i>How is compliance with this to be measured by ESC and reported on by the transmission company?</i></p>

efficient and effective manner.

What about 'work standards' expected by the landowner? Their farms are active workplaces and transmission companies need to ensure that field-based employees and contractors accessing land abide by legislation that affects the landowner. As an example AusNet workers have refused to sign farm registers.

17 Meet requirements for field-based employees and contractors accessing land

An electricity transmission company will require all persons entering or accessing land on its behalf to provide identification, if requested, on each entry. Such persons are expected to have the relevant skills, training and qualifications to undertake their allocated tasks.

All persons must respect the landowner's privacy, private assets and infrastructure. All gates, fences and grids are to be left as found, unless otherwise advised by the landowner.

All reasonable measures to identify, avoid and mitigate risks must be observed, as well as compliance with this statement of expectations.

These should be identified as minimum requirements

- Where practicable, ensure vehicles use existing roads, access points, tracks, designated work areas or set-down areas.
- Where not practicable, liaise with landowners to determine the most appropriate paths of entry.
- Use risk mitigation measures. Specific examples such measures are set out in principles 18 to 21.

No specific examples are set out in principles 18 to 21

The comments against principle 16 apply to this principle.

One issue that we are experiencing with WVTNP is that all the people involved in this project are being generically identified as AusNet Services or WVTNP and only their first names are given in most instances.

Apart from the EES consultants having the relevant skills, training and qualifications to undertake their allocated investigative tasks we do not know anything about the level of training that they or other attendees might have with regard to the legislative requirements raised by principle 16.

Other attendees are generally unknown entities, and their level of skills, training and qualifications are not known or stated in any form.

It is suggested that ESC require transmission companies to establish training/induction protocols and all parties accessing land show proof to landowners that they have undergone this training.

<p>18 Implement environmental and biosecurity controls</p> <p>An electricity transmission company will take all reasonable actions to ensure that in accessing land, it does not spread weeds, pests or pathogens. They will consult with landowners to understand property-specific needs and provide details of environmental and biosecurity policies and plans on request.</p>	<p><i>Minimum requirements and direction, including examples, as to how these actions should be carried out should be provided.</i></p>	<p>This is not a simple matter to address and is not just about washing footwear and car tyres.</p> <p><i>Implementing appropriate and site specific environmental and biosecurity controls is fundamental to the land access activities by transmission companies and their agents.. Exotic pests and diseases can threaten the agricultural sector and animal industries. It is important that biosecurity policies and plans are developed and agreed to by the landowner prior to any access taking place.</i></p> <p><i>Ensuring that water sources are protected from contamination/pollution by any activities conducted on the land during the access is also critical.</i></p>
<p>19 Manage fire risks</p> <p>An electricity transmission company will take all reasonable measures to identify and mitigate fire risks associated with accessing and using land for transmission.</p>	<p><i>Minimum requirements and direction, including examples, as to how these actions should be carried out should be provided.</i></p>	<p><i>The actions that the transmission company proposes to take to manage fire risks should be documented in the access agreement/protocol or in a separate overall risk management document to be provided to the landowner</i></p>
<p>20 Manage COVID and other health risks</p> <p>An electricity transmission company will implement a COVID-safe protocol to cover all aspects of access.</p> <p>An electricity transmission company will implement other measures and protocols as required. This action is</p>	<p><i>Minimum requirements and direction, including examples, as to how these actions should be carried out should be provided.</i></p>	<p><i>The actions that the transmission company proposes to take to manage covid and other health risks should be documented in the access agreement/protocol or in a separate overall risk management document to be provided to the landowner</i></p>

<p>in accordance with orders issued by the Minister for Health under the Public Health and Wellbeing Act 2008.</p>	
<p>Managing complaints and disputes effectively and fairly</p>	<p>Stakeholder Comments</p>
<p>21 Implement effective complaint handling</p> <p>An electricity transmission company will implement effective complaint-handling processes and standards that meet current Australia and New Zealand standards for complaints handling.</p> <p>This will ensure honest, respectful, and timely responses to issues raised by landowners and parties interested in land affected by its land access.</p>	<p><i>The provision of an information sheet that clearly explains the complaint and dispute resolution processes available to a landowner should be identified as a requirement.</i></p> <p><i>As discussed by MCHPA in the response under Q 3 (p.4) at initial contact with the landowner the transmission company should provide them with an information sheet that clearly explains the complaint and dispute resolution processes available to them.</i></p> <p><i>It would be fitting if this document was endorsed by the ESC as appropriate under the relevant Dispute Resolution Clause in the company's license.</i></p> <p><i>The landowner should also be made aware that the office of the Australian Energy Infrastructure Commissioner is also available and provide contact details.</i></p> <p><i>It is important that the complaints handling process be transparent and robust. The process needs to detail</i></p> <ul style="list-style-type: none"> <i>• how a complaint can be made</i> <i>• what information is required</i> <i>• who will receive the complaint</i> <i>• how quickly will the complaint be responded to</i> <i>• will the landowner be responded to in person, letter, phone or email</i> <i>• what does the landholder do if they are not satisfied with the outcome of the complaint</i> <i>• who can the landholder escalate the complaint to</i>

22. Offer dispute resolution

An electricity transmission company will offer third party dispute resolution to landowners and parties interested in land affected by its land access.

An electricity transmission company will provide landowners and parties interested in land affected by its land access with details of the Energy and Water Ombudsman Victoria (EWOV) scheme.

An electricity transmission company will ensure that its negotiated access agreements include provision for third party dispute resolution.

The provision of an information sheet that clearly explains the complaint and dispute resolution processes available to a landowner should be identified as a requirement. It may be that EWOV is not the party that can resolve such disputes.

EWOV may resolve disputes involving its electricity transmission company members.

- Where access does not meet reasonable expectations under this statement of expectations, landowners and parties interested in land may pursue dispute resolution through EWOV or through any third party dispute resolution body nominated under their negotiated access agreement.

MCHPA are aware this is the current process, but it does not appear to work in the matter of land access. Reporting to EWOV has not resolved disputes that have occurred during access disputes associated with the WVTNP.

There need to be a more robust process in place. The ESC is an independent statutory authority established under the Essential Services Commission Act 2001 (the Act). The commission has both regulatory and advisory roles under the Act.

MCHPA recommend that dispute resolution, at least in the short term in relation to the WVTNP, be handled by the ESC as this will fit with any reporting requirements and provide the necessary feedback loop in the management of the Statement of Expectations and the development of the Code of Practice.

Exception to notification to deal with emergencies

An electricity transmission company must ensure its network is always maintained and operated in a safe way.

If an emergency occurs during construction, maintenance or operation, an electricity transmission company may require immediate access to land without prior notice in order to meet its safety obligations. This action is consistent with the Act, the Electricity Safety Act 1998, national technical and safety regulation, and relevant easement terms and conditions.

As soon as practicable after the emergency access occurs, the electricity transmission company is expected to provide affected landowners and parties interested in land with details of the access. This must include information on the time, duration and purpose of access.

2. Expectations of landowners and parties interested in land

MCHPA Comments: Should this Section be numbered 3?

Landowners and parties interested in land are critical partners and stakeholders with electricity transmission companies in the delivery of major energy projects. They also play a major role in provision of essential transmission services.

Cooperation and acceptable workable outcomes are more likely to be achieved where landowners:

- liaise with the electricity transmission company in good faith
- provide responses to electricity transmission company requests or notices with minimum delay
- respect the rights and activities of the electricity transmission company, and provide reasonable access
- promptly notify the electricity transmission company of any damage to property caused by the company
- engage in negotiations with the electricity transmission company to determine appropriate conduct and compensation arrangements
- ensure that those present on their land do not impede the electricity transmission company's authorised activities.