

OFFICIAL



Electricity Transmission Company Land Access Draft Statement of Expectations

Draft for stakeholder comments

23 March 2022



1. About this statement of expectations

1.1. 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.
- 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.

1.2. Date of effect

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

1.3. 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).
- 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).

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.

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.

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.

<p>What has worked well in relation to prior instances of land access?</p>	<p>The necessity for an independent umpire.</p> <p>AusNet's initial land access under section 93 was conducted in the Melton area in September/October 2021.</p> <p>Melton landowners within the WVTNP corridor of investigation were the first to be accessed under Section 93.</p> <p>Landholders made complaints to the Commissioner for Energy & Infrastructure, Andrew Dyer and expressed their concerns and distress about what AusNet believed was acceptable protocol for issuing a section 93 notice and forcing access onto landholders' properties without consent.</p> <p>Landholders appreciated the fact that the Commissioner took our complaints seriously, acknowledging there were problems with AusNet's land access protocol that needed addressing and instigated some reforms.</p> <p>Landholders, owners of freehold land not under any existing easement, do not to accept section 93 with no Code of Access that gives unfettered access rights to a private entity.</p>
<p>What key challenges have you faced under current land access arrangements?</p>	<p>The timeline of land access communications</p> <p>June 2020 to August 2021 communications implied land access consent was voluntary only, no mention of a right to legally access property without consent.</p> <p>A letter of advice received re our land may be involved in the WVTNP. The main purpose of the letter was to request voluntary consent to access land attached a brief one-page consent form requesting it be signed by the landowner to give AusNet/AEMO the right to enter until 6th April 2022 very briefly listing surveys, leaving the signed document open to unfettered access, offering a \$500 pre-paid visa card. A brief one-page Schedule A Access Protocol attached.</p> <p>August 2021</p> <p>The tone of the letter requesting access was no longer voluntary access only and implied it would be better to voluntarily consent and have some rights than no rights.</p> <p><i>"Where a voluntary land access agreement is not reached by 31st August 2021, AusNet Services is authorised under law to access and undertake work on any land without landowner consent"</i></p>

	<p>There was no reference to what law or any explanation as to how this law would be enacted, how land would be accessed without consent eg break and enter</p> <p>A few other local landowners received similar information.</p> <p>From the 27th September 2021 section 93 land access began. Land owners did not expect the forceful authoritarian tactics implemented by Ausnet to enter their land, multiple men wearing body cameras jumping locked gates.</p> <p>From the outset of this project Ausnet have stated this project is a proposal. Until the November 2021 final release of the route AusNet had professed publicly, they did not know where the corridor would go. Although some land holders had been told by their liaison officer either where it would go on the land or don't worry it would be on your neighbours.</p> <p>There are valid reasons why landholders have been reluctant to consent to land access and meet with a land liaison officer. Foremost a lack of trust in any verbal information from AusNet and no social license for the proposed 500 kv overhead transmission line., No accountability for any undue stress and anxiety that is afflicted on people when it comes to exercising land access powers.</p> <p>We agree with the Energy Grid Alliance that there is an urgent need to develop transparent and accountable mechanisms for accessing land under section 93 of the Electricity Industry Act 2000.</p>
<p>What information do you consider you need prior to land access to feel comfortable with an exercise of a right to access land?</p>	

<p>Do you think the principles of the draft Statement of Expectations on land access address issues of concern to you?</p>	<p>In principle yes but without accountability and a lawful code of access we are still have no real control or rights. If we don't sign a voluntary agreement, we cannot demand the expectations.</p> <p>There should be a clear distinction between land that is freehold and under investigation compared to land within an easement. Access should only be by consent and not forced.</p>
<p>What information do you think we should collect about a transmission companies' performance in relation to land access and frequency?</p>	<p>All section 93 notices should be also sent to the ESC and reports of outcomes.</p> <p>Land owners should also be able to report to the ESC about outcomes from forced access.</p>
<p>Is there anything else you want us to consider when finalising this Statement of Expectations?</p>	<p>The issue of land access is more complex than is the current perception by Ausnet and the section 93. The studies are invasive from the landowner's perspective.</p> <p>Without a landowners consent the transmission entity should provide proof of indemnity to the landowner. What would be the outcome of an incident on the property. Would the landowner be indemnified from any Workcover claim that may arise?</p> <p>There is no empty unused space. All the proposed surveys are an impost on the land owner or share farmer or other 3rd party involved with the land. Compensation for lost time and production should be accountable.</p> <p>Farms are a work place with seasonal operations that don't fit with timetables.eg</p> <ul style="list-style-type: none"> • Animal welfare livestock lambing or calving. Strangers and equipment cannot be allowed to enter the paddocks they are grazing in. Disturbing breeding stock can result in mismothering-death of newborns. • Preparation of cropping eg spraying, burning cultivating sowing A safety issue having strangers on property.

The WVTNP is proposed to traverse many horse breeding/training properties in Melton. There has been no acknowledgement of this land use which is highly incompatible with the entry of strangers and equipment. The safety of the horses will be greatly compromised.

We agree with The Energy Grid Alliance submission which has covered appropriate comments to the general principles of land access.

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.

General Principle		Stakeholder comments
1	<p>Comply with this statement of expectations</p> <p>An electricity transmission company will comply with this statement of expectations, and with any additional access terms and conditions agreed in writing with landowners or parties interested in land.</p>	
Approach to communication and engagement	Examples of actions by electricity transmission companies	Stakeholder comments
2	<p>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</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

<p>potentially affected by a proposed transmission project.</p>	<ul style="list-style-type: none"> • 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 what stages of the project • Provide timely updates and additional details as necessary to inform affected stakeholders on project progress. 	
<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>	<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>4 Use accessible, readable communications</p> <p>All electricity transmission company communication materials regarding land access must be readable and</p>	<ul style="list-style-type: none"> • Ensure all materials are written in plain English, concise and easy to follow. Avoid use of legal language. 	

readily accessible by those affected by a transmission project.

- 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.

5 Employ respectful two-way communication

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.

Wherever possible, an electricity transmission company will incorporate landowner feedback into its decisions regarding proposed land access.

- Conduct all communication collaboratively, sensitively and respectfully.
- Ensure that anyone who engages with landowners from or on behalf of the 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 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>	<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). 	<ul style="list-style-type: none"> •
<p>7 Provide identification on contact</p> <p>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.</p>		
<p>8 Outline access rights and obligations</p>	<ul style="list-style-type: none"> • Direct stakeholders to this statement of 	<ul style="list-style-type: none"> •

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.

expectations and to related published information.

9 **Make clear when and why access is required**

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.

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

	<p>investigation, photographs or works)</p> <ul style="list-style-type: none"> • the nature of proposed investigations (for example, soil composition, groundwater, flora, fauna, indigenous sites) • 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>	<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 	<ul style="list-style-type: none"> •

	<p>environmental, planning and other relevant government processes.</p>	
<p>11 Commit to details on how access will occur</p> <p>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.</p>	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> •

	<p>necessary to 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>	<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). 	<ul style="list-style-type: none"> •
<p>13 Keep records</p> <p>In accordance with electricity transmission licences, an electricity transmission company will maintain access-</p>	<ul style="list-style-type: none"> • Confirm verbal exchanges in writing. • Document all communications 	<ul style="list-style-type: none"> •

<p>related records of its contact with landowners and parties interested in land for a period of seven years</p>	<p>regarding access between electricity transmission company officers and landowners.</p> <ul style="list-style-type: none"> • Make these communications available to the landowner upon their request. 	
<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>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 that it was collected. • Provide individuals with the right to correct their personal information if necessary. 	
<p>Managing impacts of access</p>	<p>Examples of actions by electricity transmission companies</p>	<p>Stakeholder Comments</p>

15 Minimise impact on land and landowners

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.

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.

In exercising powers of access, an electricity transmission company will:

- 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
- 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

	<ul style="list-style-type: none"> • 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, efficient and effective manner.</p>		
<p>17 Meet requirements for field-based employees and contractors accessing land</p> <p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> •

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

18 Implement environmental and biosecurity controls

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.

19 Manage fire risks

An electricity transmission company will take all reasonable measures to identify and mitigate fire risks associated with accessing and using land for transmission.

20 Manage COVID and other health risks

An electricity transmission company will implement a COVID-safe protocol to cover all aspects of access.

An electricity transmission company will implement other measures and protocols as required. This action is in

<p>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>Examples</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>22. Offer dispute resolution</p> <p>An electricity transmission company will offer third party dispute resolution to landowners and parties interested in land affected by its land access.</p> <p>An electricity transmission company will provide landowners and parties interested in land affected by its land access with details of the Energy and Water</p>	<p>EWOV may resolve disputes involving its electricity transmission company members.</p> <ul style="list-style-type: none"> • Where access does not meet reasonable expectations under this statement of expectations, landowners and parties interested in 	

Ombudsman Victoria (EWOV) scheme.

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

land may pursue dispute resolution through EWOV or through any third party dispute resolution body nominated under their negotiated access agreement.

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

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.

