

Draft Essential Services Commission Land Access Code of Practice 17

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PART 1: Preliminary

1. This Code of Practice

1.1. Purpose

1.1.1. This Code of Practice is made under section 47(1) of the Essential Services Commission Act 2001. It is a Code of Practice about entry to land for the purposes of section 93(5)(d) of the Act.

1.1.2. The objectives of this Code of Practice are to:

- (a) balance the statutory right for electricity transmission companies to access private land where necessary to provide their essential services, and the rights of those interested in the land affected by that exercise of power;
- (b) regulate how electricity transmission companies access private land using powers derived from section 93 of the Act;
- (c) establish conditions for electricity transmission companies using powers derived from section 93 of the Act, including consultation and notice requirements;
- (d) regulate actions electricity transmission companies must take when entering access agreements as an alternative to the use of access powers under section 93 of the Act;
- (e) regulate ongoing reporting obligations of electricity transmission companies when accessing private land; and
- (f) promote the long term interests of Victorian electricity consumers and the rights of those

persons holding interests in the land affected.

1.1.3. Additional objectives of Parts 2, 3 and 4 of this Code of Practice are set out in clauses 4.1, 8.1 and 10.1 of this Code of Practice respectively.

1.2. Date of effect

1.2.1. This Code of Practice came into effect on [proposed date of commencement to be inserted].

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2. Interpretation

2.1. Glossary

2.1.1. In this Code of Practice:

access agreement means:

- (a) a written agreement between an electricity transmission company and an affected party that permits access to private land of that affected party by the electricity transmission company; or
- (b) any other document that provides written consent by an affected party for access to private land of that affected party by an electricity transmission company.

access period means the period during which a notice of access is valid in accordance with clause 7.3.1 of this Code of Practice.

Act means the Electricity Industry Act 2000.

affected party/affected parties means a landowner or occupier in respect of private land that is accessed, or proposed to be accessed, by an electricity transmission company in connection with a new transmission project or a significant upgrade.

biosecurity management plan means a biosecurity management plan developed in

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accordance with the Livestock Management Act 2010.

bushfire mitigation plan means a bushfire mitigation plan developed by an electricity transmission company and approved by Energy Safe Victoria in accordance with Part 10 of the Electricity Safety Act 1998.

business day means a day that is not a Saturday or Sunday or a public holiday appointed under the Public Holidays Act 1993 for the location of the land.

commission means the Essential Services Commission.

complaint means a written or verbal expression of dissatisfaction about an action, a proposed action, or a failure to act or to observe published practices and procedures by an electricity transmission company, its employees or contractors.

Council has the same meaning as in section 3(1) of the Local Government Act 2020.

Cultural heritage management plan has the same meaning as in section 42 of the

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Aboriginal Heritage Act 2006.

electricity transmission assets means the electricity transmission system or transmission assets of an electricity transmission company that are specified in the electricity transmission company's transmission licence.

electricity transmission company/electricity transmission companies means a holder of a transmission licence.

emergency means the actual or imminent occurrence of an event that in any way endangers or threatens to endanger the safety or health of any person, or the safe, secure or reliable operation of the electricity transmission system, or that destroys or damages, or threatens to destroy or damage, any property.

land access related information means any information related to access by an electricity transmission company to private land for new transmission projects or significant upgrades on existing transmission projects, including:

- (a) records of all contact with affected parties related to land access;
- (b) any photographs or videos taken while accessing private land; and
- (a) copies of all access agreements.

landowner means:

- (a) for land under the Transfer of Land Act 1958 (other than land in an identified folio under that Act), the registered proprietor of the fee simple in the land, or a person who is empowered by or under an Act to execute a transfer of the land; or
- (b) for land in an identified folio under the Transfer of Land Act 1958 or land not under the Transfer of Land Act 1958, a person who has an estate in fee simple in the land (except a mortgagee), or is empowered by or under an Act to convey an estate in fee simple in the land; or
- (c) for Crown land subject to a registered Indigenous land use agreement or native title determination, it includes the native title holder of the land.

maximum access period has the meaning set out in clause 7.3.2 of this Code of Practice.

new transmission project means any project that involves, or is proposed to involve, works undertaken by an electricity transmission company on private land that:

- (a) prior to undertaking those works, does not contain any existing electricity

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transmission assets; and

- (b) are expected to commence the construction phase after the commencement date of

this Code of Practice.

notice of access means a notice that complies with clause 7.1.2 of this Code of Practice.

occupier means a person having some current or imminent rights to possession or occupation of the land, either by a lease, licence or any other contractual arrangement that is confirmed by the landowner.

other parties interested in land means, in respect of the private land that is accessed, or proposed to be accessed, by an electricity transmission company in connection with a new transmission project or a significant upgrade:

(a) any person with:

(i) a caveat;

(ii) any other type of interest or encumbrance; or

(iii) any interest under any statutory agreement or charge,

that is registered on the folio in the register for the land under the Transfer of Land Act 1958, but excludes beneficiaries of a covenant, a mortgagee (other than a mortgagee in possession) and any interest or encumbrance that is only on part of the land that is not being used for the proposed works; or

(b) any person who has:

(i) given written notice to the electricity transmission company specifying that that person has a lawful interest in the land that is not registered on the folio in the register for the land under the Transfer of Land Act 1958; and

(ii) provided evidence of such a lawful interest to the electricity transmission company.

but excludes affected parties.

private land means any land that:

(a) is alienated from the Crown or held in fee simple and is not owned by a public authority; or

(b) is Crown land that is:

(i) occupied by a person or body corporate that is not a public authority, under a lease or licence; or

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(ii) permanently reserved and granted to trustees or granted to the Minister administering the Crown Land (Reserves) Act 1978 and trustees jointly under any Act or an Order in Council; or

(c) is owned by a Council that is not:

(i) a public road as defined under section 17 of the Road Management Act 2004;

or

(ii) a road vested in a Council under the Subdivision Act 1988.

(d) is subject to a registered Indigenous land use agreement or native title determination;

or

(e) is managed by a Committee of Management under the Crown Land (Reserves) Act 1978 that is not a public authority.

public authority means a person or body (including a trust) established by or under an Act for a public purpose other than a Council.

registered Aboriginal party has the same meaning as in Part 10 of the Aboriginal Heritage Act 2006.

significant upgrade means works undertaken, or proposed to be undertaken, by an electricity transmission company on private land that

(f) involve an augmentation or an extension to existing electricity transmission assets located on that land or on some of that land, other than where the electricity transmission company has existing access agreements with all affected parties or an easement (obtained through an agreement or acquired under section 86 of the Act) that permit land access for those works, and  
(g) are expected to commence the construction phase after the commencement date of this Code of Practice.

transmission licence means a licence to transmit electricity issued by the commission under section 19 of the Act.

works means all things necessary or convenient for constructing, maintaining, operating, altering, replacing or decommissioning an electricity transmission company's electricity transmission assets, including any activities referred to in section 93(1) of the Act that require, or may require, using powers derived from section 93 of the Act.

## 2.2. Communications and notices

2.2.1. If this Code of Practice requires a notice, information or any other document to be

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provided to a person, the notice, information or other document must be in writing and may be provided:

(a) to a natural person:

(i) by delivering it to the person personally or if the person does not accept the notice, information or other document, by placing it in the person's presence and telling the person the nature of the notice, information or other document;

or

(ii) by delivering it to a person over the age of sixteen years at the last known address of the place of residence of the person; or

(iii) by sending it by post to the last known address of the place of residence of the person; or

(iv) by sending it electronically to that person if the person has given consent to receiving notices, information or other documents electronically from the sender; or

(b) to a body corporate:

(i) by delivering it to an officer of the body corporate or an employee over the age of sixteen years at the registered office or usual place of business of the body corporate;

(ii) by sending it by post to the registered office of the body corporate; or

(iii) by sending it electronically to that body corporate if the body corporate has consented to receiving notices, information or other documents electronically from the sender.

2.2.2. Any notice required to be given under this Code of Practice is to be regarded as having been served on that person:

(a) if delivered in person, on the day when the notice is delivered;

(b) if sent by post, four business days after the date of posting;

if it is an electronic communication, at the time determined in accordance with the Electronic Transactions (Victoria) Act 2000.

## 3. Application

3.1. Application of this Code of Practice

3.1.1. An electricity transmission company must comply with this Code of Practice in relation to all new transmission projects and significant upgrades to existing transmission projects.

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3.1.2. This Code of Practice applies to electricity transmission companies:

(a) where they access, or propose to access any land under section 93 of the Act that is private land;

(b) in relation to actions they take when entering into access agreements in circumstances where failure to enter into an access agreement would likely result in the electricity transmission company exercising its statutory rights of access to private land under section 93 of the Act; and

(c) in relation to the record keeping and reporting obligations set out in Part 4 and Schedule 2 of this Code of Practice.

3.1.3. Divisions 7, 9 and 11 of this Code of Practice do not apply where land is accessed in accordance with an access agreement.

3.1.4. This Code of Practice does not apply where land is accessed in accordance with an access agreement entered into prior to the commencement date of this Code of Practice, other than where Division 13 in Part 4 of this Code of Practice expressly provides otherwise in relation to the reporting obligations in that Part.

3.1.5. Where contractors [or other electricity transmission company authorised persons](#) access private land under section 93 of the Act on behalf of an electricity transmission company or contact affected parties regarding proposed access to private land on behalf of an electricity transmission company, the electricity transmission company:

(a) is responsible for compliance with this Code of Practice by itself, [its own authorised persons](#) and its contractors;

and

(b) must implement appropriate processes, training and contractual requirements in relation to compliance with this Code of Practice by its contractors.

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##### PART 2: Obligations prior to accessing land

##### 4. Objective of this Part

##### 4.1. Objective

4.1.1. The objective of this Part is to require electricity transmission companies to consult with, and provide relevant information to, affected parties and other parties interested in land in a manner that:

(a) involves timely, staged, relevant and appropriate engagement and consultation with affected parties and other parties interested in land;

(b) involves open, honest and respectful communication with affected parties and other parties interested in land [taking into account their background, and type of interest in the affected land](#);

(c) results in electricity transmission companies understanding and taking into account property-specific needs related to accessing of private land;

(d) provides information to affected parties that enables them to understand the nature and potential impact of the works associated with any proposed new transmission projects or significant upgrades to existing transmission projects and the proposed access to private land, their rights and obligations and the rights and obligations of the electricity transmission company under the Act;

(e) provides information to affected parties regarding the details of how access to private land is proposed to occur, and involves consultation with them before finalising those details, including but not limited to the timing of works, the purpose of access, [the number of persons seeking access and their mode of transport](#), the types of activities to be conducted on the land and the estimated duration of each instance of access;

(f) provides advance notice to affected parties of proposed access to private land; and

(g) provides affected parties with sufficient information to enable them to make informed decisions whether to enter into an access agreement and for affected parties to understand their rights to compensation under section 93 of the Act.

## 5. Communication and engagement

### 5.1. Obligation to consult

5.1.1. An electricity transmission company must consult with affected parties and other parties interested in land in accordance with this Part 2 prior to accessing land in accordance to an access agreement or by exercising its access powers under section 93 of the Act.

5.1.2. Before accessing land in accordance to an access agreement or by exercising its access powers under section 93 of the Act, an electricity transmission company must:

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(a) identify all affected parties and other parties interested in land and keep a written record of the steps it has taken;

[\(b\) provide general notification in local media that such consultations are going to occur and include references to their website;](#)

(b) inform all affected parties and other parties interested in land of the proposed access to private land, including providing the information at clauses 5.2.1(a), 5.2.1(c), and 5.3.1 of this Code of Practice;

(c) consult with a registered Aboriginal party (RAP) if a Cultural heritage management plan does not need to be prepared according to the Aboriginal Heritage Act 2006, in order to assess potential impacts of a proposed activity on Aboriginal cultural heritage; and

(d) document the steps it has taken when contact is not achieved or acknowledged by an affected party or other party interested in land. Such measures may include making enquiries with local government in compliance with applicable privacy laws and communicating via registered mail.

### 5.2. Information about new transmission projects or significant upgrades on existing transmission projects

5.2.1. In relation to each new transmission project or significant upgrade proposed to be undertaken by an electricity transmission company, the electricity transmission company must publish on its website:

(a) as early as is practicable in the planning phase of the project, details of the project, and the proposed timeline and key milestones for the project;

(b) updated versions of the information in paragraph (a), as soon as reasonably practicable after that information changes;

(c) a summary in plain English of the electricity transmission company's obligations under this Code of Practice and the rights of affected parties under section 93 of the Act, including the option to enter into an access agreement;

(d) an explanation of what input from affected parties and other parties interested in land is likely to be requested from transmission companies and why, and at what

stages of the project; and

(e) timely updates of progress of the project.

### 5.3. Accessible point of contact

5.3.1. An electricity transmission company must provide all affected parties and other parties interested in land with the contact details of a person to be a point of contact in the electricity transmission company, including the point of contact's full name, role and telephone number.

5.3.2. An electricity transmission company must take reasonable steps to ensure a point of contact responds, without unreasonable delay, to contact by an affected party or other parties interested in land related to land access for new transmission projects or

significant upgrades during business hours and any other reasonable times during which land access occurs.

### 5.4. Communication and engagement

5.4.1. An electricity transmission company must have regard to and consider feedback and any operational requirements (including seasonal factors such as high intensity periods such as harvesting, cropping, shearing etc) from all affected parties and other parties interested in land when entering land, or proposing to enter land, under section 93 of the Act or an access agreement.

5.4.2. An electricity transmission company must ensure that anyone contacting any affected parties or other parties interested in land regarding proposed land access, access agreements, or regarding changes to proposed land access or access agreements, from or on behalf of the electricity transmission company:

(a) identifies themselves and who they work for or are authorised by and the full purpose of the contact in

any communications (including by phone, email or in person);

(b) has had training in appropriate and effective stakeholder engagement, including training on engagement with traditional owners and regional and rural stakeholders, and training on the requirements of this Code of Practice; and

(c) has the relevant skills, training and qualifications to undertake their allocated tasks in accordance with this Code of Practice; and

(d) carries appropriate identification in accordance with clause 5.4.5 of this Code of Practice, sufficient to identify that person and their position within or in relation to the electricity transmission company when accessing any land and produces that identification on request by any person.

5.4.3. An electricity transmission company must ensure that all notices, information or other documents required to be provided or published under this Code of Practice:

(a) are written in plain English and designed to be readily understandable; and

(b) include contact details of translation and interpreting services.

5.4.4. On written request from an affected party, with the written consent of the landowner if requested by an occupier, an electricity transmission company must provide to that affected party requesting, the outcomes of its surveys and other relevant investigations in relation to land owned by that landowner or occupied by the occupier, such information must not be unreasonably withheld.

5.4.5. In meeting its obligations under clause 5.4.2 of this Code of Practice, an electricity transmission company need not disclose the full names of individuals acting for or on its behalf, provided that all individuals accessing private land have identification or written authorisation provided by the electricity transmission company that an affected party can

inspect upon request and readily verify the authenticity of the identification or written authorisation with the electricity transmission company. ?? why is this clause necessary

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##### 6. Information on proposed access

##### 6.1. Information on access rights and obligations

6.1.1. Prior to giving a notice of access in accordance with clause 7.1.1 of this Code of Practice, or entering into an access agreement, an electricity transmission company must provide notice, information or other documents to all affected parties that clearly explains:

- (a) the rights of the affected party under section 93 of the Act and this Code of Practice;
- (b) the rights and obligations of the electricity transmission company under section 93 of the Act and this Code of Practice, including obligations for making full compensation for any damage sustained;
- (c) mitigation and compensation protections that apply to access under section 93 of the Act, including any requirements regarding compensation that may apply under the Land Acquisition and Compensation Act 1986;
- (d) how the rights and obligations of the electricity transmission company and affected parties differ under:
  - (i) land access under section 93 of the Act; and
  - (ii) the terms of any access agreement; and
- (e) the effect of entering into any access agreement, including the purpose and effect of any payments that are made by the electricity transmission company under an access agreement.

##### 6.2. Information on proposed access

6.2.1. Prior to giving a notice of access in accordance with clause 7.1.1, or entering into an access agreement, an electricity transmission company must provide to all affected parties the following information:

- (a) the processes for the electricity transmission company to make decisions relating to the proposed land access;
- (b) the opportunities for affected parties to participate in consultation on the new transmission project, or significant upgrades to the existing project, for which the land access will relate and on the proposed land access;
- (c) how the proposed land access interacts with environmental, planning, **animal rights protection** and other relevant statutory approval processes;
- (d) details of which stage of the transmission project lifecycle the proposed land access relates to (for example, for planning and investigations, construction, operation and maintenance, replacement or decommissioning of assets);
- (e) the planned dates and times when access to land is sought and the proposed

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access period **taking into account any seasonal or high intensity activities in relation to the land such as harvesting, shearing, cropping etc**);

- (f) the estimated duration of each instance of access;
- (g) the foreseeable variables that may affect the planned dates, times or duration of access;
- (h) the purpose of access and the types of activities to be conducted on the land during access **(including use of drones or aircraft)**;
- (i) the specified area or areas of land which are requested to be accessed and the expected point or points of entry (if this can be reasonably identified prior to gaining



physical access) **utilising existing entry points such as gates wherever possible;**

(j) the equipment (**including transport such as utes**) expected to be brought onto the land and the purpose it will be used

for;

(k) the number of **and occupational type of** people expected to enter the land on behalf of the electricity transmission company and the organisations they represent;

(l) how the electricity transmission company will comply with land management obligations, including biosecurity laws and any applicable biosecurity management plans **as well as any fire security or Hazchem requirements;**

(m) the period of notice that will be provided prior to accessing land;

(n) how any changes to the proposed dates or details of access will be communicated;

**(o) insurance liability of electricity transmission company for its employees, agents and authorised persons to replace land holder's "occupiers liability" including applicable releases and indemnities in favour of the relevant landholder.**

and

(o) the proposed terms of any access agreement the electricity transmission company is offering to enter into as an alternative to access under section 93 of the Act **and how they differ from this code.**

6.2.2. An electricity transmission company must establish a process to answer questions from all affected parties on the matters set out in clause 6.2.1 and have regard to any feedback from affected parties on those matters.

7. Notice of access under section 93

7.1. Notice of access

7.1.1. After providing information in accordance with clause 6.2.1, an electricity transmission company may enter land in accordance with section 93 of the Act, provided that the electricity transmission company gives all affected parties a notice of access prior to accessing land under section 93 of the Act.

7.1.2. A notice of access must:

(a) be given at least **30** business days after providing information on the proposed access in accordance with clause 6.2.1 and at least **15** business days prior to the start of the access period; and

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(b) specify:

(i) the access period;

(ii) the planned dates and times of access to land of an affected party during the access period (**for the avoidance of doubt such times of access can only occur within the hours of 8 am to 6 pm**); and

(iii) details of the access, including the information in clauses 6.2.1(f) to (n) or any updates to that information.

7.1.3. An electricity transmission company must send a reminder before each proposed access during the access period, which must be given by at least 48 hours before each proposed access, directly in person, by telephone or by way of requesting a confirmation reply using any form of electronic communication agreed with the affected party.

7.2. Maximum access period

7.2.1. A notice of access will only remain valid for the access period set out in the notice of access.

7.2.2. The access period must not exceed 6 months (the maximum access period).

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7.2.3. A notice of access applies to all instances of land access that occur within the access period.

7.2.4. If an electricity transmission company wishes to access land after the expiry of the access period, it must provide a new notice of access (which may be provided prior to such expiry) that:

(a) explains why continued access to the land is necessary; and  
(b) for the avoidance of doubt, complies with clause 7.1.2, including the requirements that the new notice of access must specify:

(i) the new access period (which must not exceed the maximum access period);  
(ii) the planned dates and times of access during the new access period; and  
(iii) details of access, including an updated version of the information in clauses 6.2.1(f) to (n).

7.3. Changes to notified access

7.3.1. If an electricity transmission company wishes to postpone and change the dates or times of access from the planned dates and times already notified and set out in the notice of access, or any details of access that were set out in the notice of access, it must:

(a) contact all affected parties at least 48 hours before the original planned date and time of access, detailing the information that has changed, using the form of communication for such changes set out in the notice of access; and  
(b) use its best endeavours to contact all affected parties directly in person or by telephone or by way of requesting a confirmation reply using any form of electronic

communication, provided the reply is not an automated response.

7.3.2. An affected party may request that the electricity transmission company changes the planned dates or times of access set out in the notice of access, or any amended dates notified in accordance with clause 7.3.1, and may propose alternative dates or times for access.

7.3.3. If an affected party makes a request under clause 7.3.2, the electricity transmission company must:

(a) advise the affected party and all other affected parties whether it agrees to the request;  
(b) advise all affected parties of the amended date and time of the proposed access if it agrees to the request; and  
(c) provide written reasons to the affected party if it does not agree to the request.

7.3.4. An electricity transmission company must agree to a request made by an affected party under clause 7.3.2, unless:

(a) the affected party making the request has made three or more requests under clause 7.3.2 that have already been approved by the electricity transmission company during the relevant access period; or  
(b) agreeing to the request would be likely to have a demonstrable material cost impact or lead to a demonstrable material delay to the new transmission project or significant upgrades or otherwise cause significant disruption to the electricity supply network; or  
(c) the request requires or creates a delay of more than 30 business days.

7.4. Exceptions to notice requirements

7.4.1. The notice requirements in Division 7 of this Code of Practice do not apply:

(a) if all affected parties of the private land consent in writing to the entry; or

(b) in an emergency.

7.4.2. If an emergency requires an electricity transmission company to gain immediate access to land without prior notice in order to meet its safety or other legal and regulatory obligations, then as soon as practicable after the emergency access occurs, the electricity transmission company must provide all affected parties with details of the access. This must include information on the time, duration and purpose of access and the affected parties' rights under section 93 of the Act.

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##### PART 3: Obligations during land access under section 93 of the Act

#### 8. Objective of this Part

##### 8.1. Objective

8.1.1. The objective of this Part is to require electricity transmission companies to take actions when accessing land under section 93 of the Act to minimise the impact of land access on affected parties, and on the land itself, consistent with their obligations under section 93(2) of the Act to "do as little damage as may be" in the exercise of their land access powers.

#### 9. Requirements when accessing land

##### 9.1. General obligations during access

9.1.1. An electricity transmission company must require all people accessing land ~~for or on~~ behalf of the electricity transmission company to:

(a) have the relevant skills, training and qualifications to undertake their allocated tasks and comply with the electricity transmission company's obligations under this Code of Practice; and

(b) respect the privacy, private assets and infrastructure of affected parties.

##### 9.2. Risk minimisation during access

9.2.1. When accessing land, an electricity transmission company must:

(a) cause as little harm, inconvenience and damage as possible to the land, as well as to anything living on or growing on the land; (where in code does it deals with consequences of damage – should be a part requiring companies to promptly deal with damages claim and not ultitise their economic power or raise technical defences see Victorian Government model litigant rules)

(b) not stay on the land any longer than is reasonably necessary;

(c) 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 an affected party agrees may be left on the land or which are required for the purpose of the access);

(d) minimise attendance where possible and appropriate with attendance limited to those people reasonably required to perform works;

(e) leave all gates, fences, grids and any other assets as found, unless otherwise advised by an affected party, or where necessary and in accordance with good industry practice;

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(f) where practicable, ensure vehicles use existing roads, access points, tracks, designated work areas or set-down areas, or where not practicable, liaise with affected parties to determine the most appropriate paths of entry; and

(g) inform affected parties in writing when land access has concluded, outlining the activities that were undertaken in the land.

##### 9.3. Biosecurity controls

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9.3.1. An electricity transmission company must take the following actions in relation to biosecurity risks associated with land access:

- (a) consult with affected parties prior to issuing a notice of access to understand site specific biosecurity needs, including any applicable biosecurity management plans;
- (b) develop and implement biosecurity policies and procedures in accordance with good industry practice to minimise the spread of weeds, pests or pathogens, including 'come clean, stay clean, go clean' practices consistent with recommendations by Agriculture Victoria;
- (c) provide affected parties with details of any applicable biosecurity policies and procedures on request before accessing land;
- (d) provide a report to affected parties within 15 business days after land access has concluded, which must include personnel in attendance, locations accessed, materials ??why is chemical use contemplated at all and a description of the activities undertaken on the land; and
- (e) document any environmental or biosecurity incidents that may occur when accessing land under section 93 of the Act and communicate them to affected parties immediately.

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9.4. Fire risk management

9.4.1. An electricity transmission company must take the following actions in relation to fire risks associated with land access:

- (a) consult with affected parties prior to issuing a notice of access to understand property-specific needs associated with fire risks;
- (b) implement policies and procedures to identify and mitigate fire risks in a manner consistent with its bushfire mitigation plan and applicable State emergency management law; and
- (c) provide affected parties with a copy of its bushfire mitigation plan and any other relevant policies and procedures on request.

9.5. Health risk management

9.5.1. An electricity transmission company must consult with affected parties prior to issuing a notice of access to understand property-specific needs associated with health risks.

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9.5.2. An electricity transmission company must implement policies and protocols in relation to health risks associated with land access.

9.5.3 An electricity transmission company must advise affected parties of any health risks identified in the course of its land access.

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PART 4: Dispute resolution, record keeping and reporting

10. Objectives of this Part

10.1. Objectives

10.1.1. The objectives of this Part are to require electricity transmission companies to:

- (a) implement respectful and responsive complaints-handling and dispute resolution processes in relation to issues raised by affected parties recognising the economic imbalance between companies and the affected parties;
- (b) maintain appropriate records in relation to land access; and
- (c) provide reports to the commission in relation to land access to enable the

commission to monitor compliance with this Code of Practice and make informed decisions on potential future amendments to this Code of Practice.

## 11. Complaint handling and dispute resolution

### 11.1. Complaint handling and dispute resolution

11.1.1. Prior to accessing land, an electricity transmission company that proposes to access land under section 93 of the Act for new transmission projects or significant upgrades must enter into a customer dispute resolution scheme approved by the commission for the purpose of this clause and remain a participant in that scheme while any access under section 93 of the Act is being considered or undertaken and for a period of 36 months following the conclusion of land access period including any extensions to the period under clause 7.3.

11.1.2. An electricity transmission company that proposes to access land under section 93 of the Act must take the following actions in respect of complaints and disputes raised by an affected party in relation to land access, or proposed land access, under section 93 of the Act in connection with a new transmission project or significant upgrades:

- (a) provide timely responses to complaints received from affected parties;
- (b) develop, implement, publish on its website and regularly review complaint-handling processes specific to land access. These processes must be consistent with the Australian Standard AS ISO 10002:2022 Guidelines for complaint management in organizations;
- (c) publish clear information on the steps to follow and relevant people to contact to escalate complaints within the electricity transmission company's management structure, for affected parties who have concerns or are not satisfied with an electricity transmission company's response or actions;
- (d) inform affected parties in writing about their right to refer a complaint to a customer

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dispute resolution scheme approved by the commission in accordance with clause 11.1.1 of this Code of Practice if affected parties are not satisfied with an electricity transmission company's response in relation to the complaint; and

(e) provide affected parties with the contact details for the relevant customer dispute resolution scheme approved by the commission in accordance with clause 11.1.1 of this Code of Practice.

11.1.3. For the avoidance of doubt, approval of a customer dispute resolution scheme for the purpose of clause 11.1.1 and the matters set out in clause 11.1.2 of this Code of Practice are for complaints or disputes that are related to land access, proposed land access or compliance with this Code of Practice, except where the complaint or dispute relates to land access that occurs under an access agreement.

## 12. Record keeping

### 12.1. Keeping records relating to land access

12.1.1. An electricity transmission company must electronically retain all land access related information for a period of 30 years or the decommission of the transmission line.

12.1.2. An electricity transmission company must:

- (a) keep a written record of all verbal communications with affected parties relating to private land access;
- (b) confirm in writing to an affected party, all verbal communications with that affected party relating to private land access, unless an affected party provides consent in writing to not receive written confirmation of verbal communications; and

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(c) make records of any communications with an affected party available to that person upon request.

### 13. Reporting

#### 13.1. Reporting obligations

13.1.1. An electricity transmission company must provide reports to the commission in accordance with this Code of Practice.

13.1.2. Where a report or any other information provided to the commission includes “confidential information” (this should be defined), the electricity transmission company must:

- (a) where only part of a document is claimed as containing confidential information, clearly identify that part of the document;
  - (b) provide reasons for the identification of the information as confidential information;
- and

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(c) provide a publicly accessible version of the confidential information redacted or removed in a manner that protects the confidential manner when published by the commission.

#### 13.2. Requirement to provide monthly reports

13.2.1. An electricity transmission company that is developing a new transmission project or is undertaking significant upgrades on existing transmission projects must provide to the commission monthly reports containing the matters, and in the form and manner, required by this Code of Practice.

#### 13.3. Timing of monthly reports

13.3.1. The report for a month must be provided to the commission by the [tenth] business day of the following month.

#### 13.4. Format of monthly reports

13.4.1. A monthly report must be in writing and must comply with any format requirements notified by the commission to the electricity transmission company in writing.

13.4.2. The following requirements apply when preparing monthly reports:

(a) Reporting on negotiations and entry into access agreements under clauses 13.5.1(a) and (b) of this Code of Practice only includes access agreements that have been entered into, or where negotiation has occurred subsequent to, the commencement date of this Code of Practice.

(b) Reporting on the dates and number of times land was accessed and complaints related to land access under clauses 13.5.1(d) and (e) of this Code of Practice includes land access under access agreements entered into prior to the commencement date of this Code of Practice.

(c) Each day of land access and each parcel of land must be counted separately, even if multiple instances of land access are conducted pursuant to a single notice of access. Where there are multiple instances of access pursuant to a single notice of access, that must be identified.

#### 13.5. Information to be contained in monthly reports

13.5.1. A monthly report must contain the following information in relation to activities related to land access for new transmission projects or significant upgrades on existing transmission projects undertaken by the electricity transmission company during the relevant month:

- (a) the number of access agreement negotiations underway as at the end of the month;
- (b) the number of access agreements entered into during the month;

(c) the number of notices with information on proposed access issued in accordance with clause 6.2.1 of this Code of Practice during the month;

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(d) the number of notices of access issued in accordance with Division 7 of this Code of Practice during the month;

(e) the number of times land was accessed during the month, and in each instance:

(i) whether access was under an access agreement or section 93 of the Act;

(ii) whether each access was pursuant to a notice of access issued in accordance with clause 7 of this Code of Practice; and

the days between issuing a notice of access and access occurring.

(f) in relation to any complaints by affected parties in relation to land access during the month:

(i) the number of complaints received by the electricity transmission company;

(ii) the number of complaints received from the relevant customer dispute resolution scheme approved by the commission in accordance with clause 11.1.1 or other applicable external dispute resolution body;

(iii) the number of days to respond to each complaint;

(iv) any actions taken in response to the complaint;

(v) the number of days to resolve each complaint; and

(vi) a summary of the nature of the complaints received during the period.

(g) any litigation arising from land access made by affected parties including its nature and the stage of proceedings.

13.5.2. Clause 13.5.1 only applies to an electricity transmission company that undertook any activities related to land access for new transmission projects or significant upgrades on existing transmission projects during the relevant month. If no land access activities were undertaken during the relevant month, an electricity transmission company that is developing a new transmission project or is undertaking significant upgrades on existing transmission projects must provide a monthly report reporting 'nil' for each of the items in paragraphs (a), (b), (c), (d), (e)(i) and (e)(ii) of clause 13.5.1.

13.6. Additional obligations to remedy and report breaches

13.6.1. If an electricity transmission company breaches this Code of Practice, it must remedy that breach as soon as practicable.

13.6.2. An electricity transmission company must report to the commission any breach or potential breach of the obligations identified in Schedule 2 in the manner, form and time specified in the schedule.

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SCHEDULE 1: Civil Penalty Requirements

The following provisions of this Code of Practice are specified civil penalty requirements for the purpose of the Essential Services Commission Act 2001.

PART 2: Obligations prior to

accessing land

Communication and engagement: 5.1.1;

5.1.2; 5.2.1; 5.3.1; 5.3.2; 5.4.1; 5.4.2;

5.4.3; 5.4.4

Information on proposed access: 6.1.1;

6.2.1; 6.2.2

Notice of access: 7.1.1; 7.1.2; 7.1.3;  
7.2.4; 7.3.1; 7.3.3; 7.3.4; 7.4.2

PART 3: Obligations during land  
access under section 93

Requirements when accessing land:  
9.1.1; 9.2.1; 9.3.1; 9.4.1; 9.5.1; 9.5.2

PART 4: Dispute resolution, record  
keeping and reporting

Complaint handling and dispute  
resolution: 11.1.1; 11.1.2

Record keeping: 12.1.1; 12.1.2

Reporting: 13.1.1; 13.2.1

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SCHEDULE 2: Reporting obligations for breaches

1. This Schedule sets out electricity transmission companies compliance reporting obligations for breaches and potential breaches, as summarised in Table 1 below.

Table 1 Summary of electricity transmission company reporting obligations

Reporting obligation Frequency Timing

Any breach As required Within 30 calendar days  
of detection

Annual report Annually For the period 1 July to

30 June – on or before

31 August

2. If an electricity transmission company submits an incomplete report because the investigation is ongoing, the company must provide a complete report within 20 business days from the date it was originally reported to the commission.

3. A breach is detected where an electricity transmission company has reasonable grounds to believe a reportable situation has arisen. That is, a company knows of facts or has sufficient evidence to consider that a breach has occurred.

Annual report

4. A report containing a summary of all breaches identified during the period must be submitted annually.

5. A report for the purpose of clause 4, must be signed by the CEO, Managing Director or equivalent of the electricity transmission company.

6. Electricity transmission companies must submit a nil compliance report in instances where there are no breaches to report for a relevant annual reporting period.

Form and content of breach reports

7. All breach reports must be made using the relevant compliance reporting template located on the commission's website. All breach reports must be submitted via email to [compliance.reporting@esc.vic.gov.au](mailto:compliance.reporting@esc.vic.gov.au).