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Thursday, 27 July 2023

Ms Sarah Sheppard
Interim Chief Executive Officer
Essential Services Commission Victoria
L8, 570 Bourke St
Melbourne, Vic 3000

Dear Ms Sheppard

Draft Land Access Code of Practice

Transgrid welcomes the opportunity to respond to the Draft Decision and draft Land Access Code of Practice (**Draft Code**) published by the Victorian Essential Service Commission (ESC) on 15 June 2023. We understand the Draft Code will apply when transmission companies use their powers under section 93 of the Electricity Industry Act 2000 (the Act) to access private land for new transmission projects and significant upgrades on existing transmission projects.

We are the transmission operator and manager in New South Wales (NSW) and the Australian Capital Territory (ACT) and have over 60 years' experience consulting and working with landowners in NSW and the ACT. We are also an owner and operator of transmission assets in Victoria under our Declared Transmission System Operator (DTSO) licence and are therefore uniquely placed to assist the ESC on this reform. We are committed to engaging with, and addressing the concerns of, landowners and the communities who are impacted by transmission infrastructure.

We support the intent of any proposal aimed to improve consultation about land access with landowners and other impacted parties. We consider that improving landowner rights, relationships and reducing impacts when accessing land for greenfield transmission will help secure social licence.

Securing social licence through streamlined and effective landholder consultation processes for new transmission projects is critical to allowing timely delivery and in turn achieving Government emission reduction targets. We support the ESC's efforts and provide feedback to ensure that effective consultation with landholders that promotes timely investment in transmission projects, which are critical to an orderly transition to renewables.

Our high-level view on the development of the final Land Access Code of Practice (**Final Code**) includes that it should:

- Only apply to new projects that require statutory (opposed entry) processes to avoid risks of project delays and cost increases for limited benefit.

- Be fairly applied to entities which hold electricity transmission licences, and entities which are also competing for transmission projects which may not hold licences.
- Limit communication with landholders only where landholders have requested not to be engaged.
- Clarify that consultation records with landholders should be maintained although TNSPs should be free to determine the best way to manage this to ensure a cost-efficient approach.

We provide the following feedback on each of the following three key aspects of the Draft Code:

- Scope of the Code.
- Communication and engagement requirements.
- Complaints and dispute resolution.

1. Scope of the Code

We understand the Draft Code has been developed to address landowner concerns about greenfield transmission infrastructure projects. Specifically, it seeks to address concerns about the ability of networks to undertake opposed entry (under section 93(1) of the Act) to undertake activities including fields studies, surveys and sinking bores.

To address these concerns Transgrid considers that the Final Code should be limited to relate to both:

- **New projects only**, not existing transmission lines with existing easement and access rights. The definition of new projects should be limited to works that involve either land where:
 - There is no existing easement.
 - An easement must be widened to support an upgrade.
- **Statutory processes only**, where an agreement for land access could not be reached for a new project to avoid limiting the ability of parties to adopt best practice consultation and communications for voluntary arrangements. For works on existing easements the TNSP should continue to comply with established legislation, agreed easement terms, plus its own best practice for engaging landowners.

2. Communication and engagement

We support the Draft Code requirement for consultation only once we have established a land access agreement to facilitate and promote the development of voluntary access agreements.

In relation to “other parties interested in land”:

- We do not support the proposed requirements to consult with them on access to land. This is because their rights are not impacted - only the occupier(s) of the land are impacted. These parties should only be consulted and provided accessible points of contact for easement acquisition where interested parties are impacted.
- Extending consultation obligations for land access to them would be time-consuming, increase the risk of delaying the process and not deliver any clear benefit to the occupiers of land.

- Where “other interests” are impacted via easement acquisition, these should go through a process of consultation and negotiation (i.e. the usual statutory process).

Voluntary access agreements

We recommend that communication and engagement for voluntary access agreements should be kept to general best practice principles, rather than codified requirements.

Obligations and penalties should only apply to breaches of statutory, opposed entry, and should not apply to voluntary access arrangements. These are too difficult to police and might have the unforeseen consequences of discouraging voluntary arrangements.

3. Complaint and dispute resolution

The ESC has expressed a preference to use the Energy and Water Ombudsman Victoria (EWOV) to handle complaints. We consider that complaints should first be directed to the relevant TNSP for internal complaints and dispute resolution processes to apply, and request that this is clarified in the Final Code.

The Code should be limited to dealing with complaints not resolved by the TNSP. These complaints should be taken on by a centralised dispute body who is well suited to manage complaints and disputes in a timely manner. Transgrid encourages the ESC to avoid prolonged dispute management which can have a negative impact on landowners and lead to project delays when time critical property access is required, for example when spring surveys must be undertaken to assess fauna and flora in the new area.

Closing

We would welcome the opportunity to further discuss with the ESC the matters raised in this letter to arrive at an outcome in the long-term interests of consumers. If you have any questions on this letter, please feel free to contact me or Sam Martin at [REDACTED]

Yours faithfully



Maryanne Graham
Executive General Manager
Corporate & Stakeholder Affairs