

OFFICIAL



Electricity Transmission Company Land Access Draft Statement of Expectations

Draft

23 March 2022



An appropriate citation for this paper is:

Essential Services Commission 2022, Electricity Transmission Company Land Access Draft Statement of Expectations: Draft, 23 March

Copyright notice

© Essential Services Commission, 2022



This work, Electricity Transmission Company Land Access Draft Statement of Expectations, is licensed under a Creative Commons Attribution 4.0 licence [creativecommons.org/licenses/by/4.0/]. You are free to re-use the work under that licence, on the condition that you credit the Essential Services Commission as author, indicate if changes were made and comply with the other licence terms.

The licence does not apply to any brand logo, images or photographs within the publication.

Preface

Essential Services Commission **Electricity Transmission Company Land Access Draft Statement of Expectations**

i

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).

1.4. 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 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.

1.5. 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.

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		
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	
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 potentially affected by a proposed transmission project.</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

		<p>why, and at 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.
3	<p>Be accessible and responsive</p> <p>An electricity transmission company will provide affected landowners <u>and parties interested in land</u> 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.
4	<p>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>	<ul style="list-style-type: none"> • Ensure all materials are written in plain English, concise and easy to follow. Avoid use of legal language. • 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	<p>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>	<ul style="list-style-type: none"> • Conduct all communication collaboratively, sensitively and respectfully. • Ensure that anyone who engages with landowners

Wherever possible, an electricity transmission company will incorporate landowner [and parties interested in land](#) feedback into its decisions regarding proposed land access.

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

6 Identify and contact those affected

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.

- Contact the registered landowner of the property to be accessed.

Commented [DK1]: Contact is to be made in writing in addition to any other means

- 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).

Commented [DK2]: Contact is to be made in writing in addition to any other means

7 Provide identification on contact

An electricity transmission company will ensure that anyone contacting landowners or parties interested in land 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.

- Direct stakeholders landowners and parties interested in land to this statement of 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 or party interested in land 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 investigation, photographs or works)
- 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.

10 **Explain the processes involved**

An electricity transmission company will provide information [to landowner and parties interested in land](#) on the processes and decisions relating to its action of land access for transmission purposes.

- 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.

11 Commit to details on how access will occur

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

- 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 perform investigations or works permitted to access a property.

12 Give reasonable notice of proposed access

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.

An electricity transmission company will establish and publish minimum notice periods for land access during different stages of its transmission projects (that is, planning,

- 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

<p>investigation, construction, maintenance and operational stages).</p> <p>Where possible, notice periods and formats should reflect the landowner's preferences.</p>	<p>of access requests (for example, email, phone call or letter).</p>
<p>13 Keep records</p> <p>In accordance with electricity transmission licences, an electricity transmission company 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>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>

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
- use best endeavours to cooperate with the landowner and land occupier.

16 Meet expected work standards

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.

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.

- 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.

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 accordance with orders issued by the Minister for Health under the Public Health and Wellbeing Act 2008.

Managing complaints and disputes effectively and fairly Examples

21 Implement effective complaint handling

An electricity transmission company will implement effective complaint-handling processes and standards that meet current Australia and New Zealand standards for complaints handling.

This will ensure honest, respectful, and timely responses to issues raised by landowners and parties interested in land affected by its land access.

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.

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.

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 and parties interested in land:

- 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.

Appendix A

Section 93 Powers as to works etc.

Extract from the Electricity Industry Act 2000

Taken from Version No. 093, Electricity Industry Act 2000

Version incorporating amendments as at 1 March 2022

93 Powers as to works etc.

- (1) For the purposes of this Act, an electricity corporation, subject to this Act—
 - (a) may enter upon any lands and sink bores and make surveys and do any other acts or things necessary for sinking bores or making surveys; and
 - (b) may, with any equipment or devices, receive, store, transmit, or supply electricity, water, brown coal or products of brown coal over, or under, any land and may enter on any land upon either side of such equipment and fell or remove any tree or part of a tree or any obstruction which in the opinion of the electricity corporation it is necessary to fell or remove; and
 - (c) subject to the **Water Act 1989**, may divert water from any waterway, lake, lagoon, swamp or marsh, or alter the bed, course or channel of any waterway; and
 - (d) subject to the **Road Management Act 2004**, may enter upon any public or private land or roads and construct any works or place on under or over any such land or road any structure or equipment and may repair, alter or remove any such structure or equipment or any works under its control; and
 - (e) may do all other things necessary or convenient for constructing, maintaining, altering, or using any works or undertakings of, or under the control of, the electricity corporation.
- (2) In the exercise of the powers under subsection (1), an electricity corporation must do as little damage as may be and, must, if required within 2 years from the exercise of the powers, make full compensation to the owner of and all parties interested in any land for any damage sustained by them in consequence of the exercise of the powers.
- (3) Compensation under subsection (2) shall be either a gross sum or a yearly rent as may be agreed and, in default of agreement, shall be determined in the manner provided in the **Land Acquisition and Compensation Act 1986**.

- (4) An electricity corporation may exercise its powers under this section by its officers or employees or by any other person authorised in writing by it or by the officers or employees of any such person.
- (5) This section applies—
- (a) to a distribution company, transmission company and a generation company holding a licence under Part 2; and
 - (b) to the holder of any other licence under Part 2 as if a reference in this section to an electricity corporation included a reference to the holder—
- and so applies—
- (c) subject to the conditions of the licence in relation to the exercise of powers under this section; and
 - (d) subject to any provision of a Code of Practice about the entry on land by a person referred to in paragraph (a) or (b).
- (6) The entitlement to compensation under subsection (2) is not affected by—
- (a) anything to the contrary in the **Road Management Act 2004**; or
 - (b) any right conferred by, or any obligation or duty imposed under, the **Road Management Act 2004**.
- (7) A provision of a Code of Practice about the entry on land by a person referred to in subsection (5)(a) or (b) has no effect to the extent that it—
- (a) confers, or purports to confer, any right or power which is inconsistent with the **Road Management Act 2004**; or
 - (b) imposes, or purports to impose, any obligation or duty which is inconsistent with the **Road Management**