

27 July 2023

Ms Sarah Sheppard  
Acting Chief Executive Officer  
Essential Services Commission Victoria  
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## Draft Land Access Code of Practice

Dear Ms Shepherd,

Energy Networks Australia (ENA) appreciates the opportunity to provide a response on the ESC's draft Land Access Code of Practice.

ENA is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

Transmission is an important enabler of the transition to a lower emissions economy. New renewables are often located in different locations from the aging coal generators. Increasing the amount of renewables connected to the transmission network will put downward pressure on the wholesale electricity prices, ultimately reducing costs for all electricity consumers. Electricity is an essential service for all Victorians, there is a need to deliver the right transmission projects in a timely manner.

ENA is supportive of open, accessible communications between a transmission company and landowners. It is crucial to have safe and respectful two-way communications and transparent arrangements for land access. ENA is also mindful that this may set a precedent for land access nationally and for other types of linear infrastructure such as road, rail and water etc. It is important to ensure the right balance for all stakeholders, including energy customers who ultimately benefit from enabling lower cost renewable energy to reach customers.

Many stakeholders are noting around the world that the delivery of transmission is challenging and not proceeding fast enough. It is crucial that new generation and transmission is available to ensure ongoing supply as the aged generators retire and local gas reserves reach end of life. As

residences and businesses electrify, the pressure on the electricity grid to deliver will be enormous. Given the long lead times for transmission infrastructure delivery, it is critical to develop and commission projects quickly for the benefit of all consumers.

### **Application of the Code**

ENA recommends that the Code only apply to new greenfield transmission projects. It is our preference for voluntary access arrangements to be agreed between the TNSP and landowner in the first instance as this allows a more tailored approach where the landowner has a say in the process. The Code should not codify requirements for voluntary access arrangements - this would be best left at a general best practice principles level.

There should be the opportunity for landowners to, on their request, limit the communications they have under the Code arrangements. For example, over the construction phase landowners should be able to allow the initial notice to extend beyond six months. The framework should be flexible enough to allow for pragmatic approaches to be reached for landowners and TNSPs.

### **Appropriate long-term point of contact**

ENA agrees that all transmission projects (new or upgrades) should have a clear key point of contact with the transmission company. The ESC decision paper proposes that the contact's full name, role and telephone number be provided. ENA suggests that a first name, role and phone number be provided in 5.3.1. As noted at the public webinar, these projects can go on for years and the role and phone number may be passed to others if the employee changed roles or took leave. Clause 5.4.5 notes that the full names of individuals acting on behalf of the company need not be disclosed but there must be proper identification. ENA supports this approach to manage staff safety and suggests that 5.3.1 take a similar approach.

### **Role of the Victorian transmission planner for the early planning phase**

The policy arrangements for Victorian transmission planning and investment have recently been announced. The ESC should clarify whether and how the Code applies to AEMO Victorian Planning and the new Transmission Company Victoria. Particular attention should be paid to how the Code would apply to these parties in the early planning phases - e.g. the early project information, approximate timings etc should be clarified. Some of these aspects may be better undertaken by the Victorian planner, as the winning bidder for any contestable design and construction of major transmission infrastructure can only commence activities under the Code once contracted and licenced. If the project planner role transitions at some stage, it is important that the roles and transfer points are clear to landowners and interested stakeholders. Continuity and transparency is critical from a landowner perspective.

### **Number of contacts and rescheduling**

ENA notes that there are three notifications proposed prior to accessing private land over about a six-week period and a land owner can seek to reschedule at any time, including seeking to reschedule the day before the planned access. The landowner could seek to reschedule three times for legitimate reasons – work, sickness etc. If this did occur then the staff, archaeologists, ecologists, surveyors, Registered Aboriginal Parties, security and other contractors etc would

need to be rescheduled but also it may be problematic to schedule other work at the last minute. Given the draft determination requires land access bookings with 10 business days notice these resources cannot be redeployed for weeks and sometimes booking lead times for specialists could be 4-12 months. Projects would slip and ultimately the costs to all electricity consumers would increase. Where projects are delayed due to this rescheduling, higher cost and higher emissions generation would continue in the mix, resulting in higher electricity bills to all consumers.

Given compliance with the Code is required, transmission companies may choose to use registered post to evidence notification delivery. This will also add to the costs of new transmission but also the ongoing costs where line inspection and vegetation management occur on a regular basis. ENA is mindful of the rising cost of living, including electricity costs, and the need for respectful two-way engagement with impacted landholders and their legitimate rights. ENA recognises that voluntary land access arrangements are preferable.

It is important for the ESC to consider whether the Code in its current form has the right balance between the interests of landholders and communities on the one hand, and the interests of all energy consumers on the other. We understand that landowners' time is precious, once a project is understood there appeared to be a view at the public webinar that the first Notice of Access could potentially last longer than 6 months, the further two notifications per access visit would still be required. This may be worth considering for a construction phase and for ongoing inspections.

### **Complaint and dispute handling process**

The ESC has expressed a preference to use EWOV to handle dispute resolution. Complaints should first be directed to the relevant TNSP (or transmission planner) for internal complaints and dispute resolution processes to apply. This should be made clear in the Code.

EWOV has not traditionally handled transmission land access disputes. As the pace of the transition increases, EWOV will need to ensure that they have the appropriate staffing levels, staff training and KPI's for agreed resolution times. This is not dissimilar to licenced entities who have invested in training land liaison officers and other landholder facing staff.

The Code should be specific about the complaints that fall under the Code – i.e. those limited to land access and only those complaints not resolved by the TNSP (or transmission planner) should be taken on by the centralised dispute body.

ENA notes that the Australian Energy Infrastructure Commissioner has specifically been established to handle complaints relating to land access. The Code should make it clear that there is only one party who has the responsibility to manage complaints regarding land access under the Code. The Code should be clear the disputes will be handled under the relevant laws and not in multiple places. Lengthy disputes processes could cause project delays and may have flow on impacts for landowners, projects, and energy customers.

**Review period**

ENA suggests that the Code be reviewed within two years of commencement. Delivering new transmission and maintaining transmission is complex and the rate of change will increase. It would be useful to systematically investigate the effectiveness of the Code in its practical application including intended and unintended consequences. We note that significant work has been done in this space, including through the Energy Charter and at a federal government level.

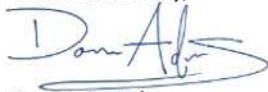
Maintenance windows are becoming narrower as the power system is increasingly complex to operate. ENA would be concerned if this Code were to act as a barrier to the safe and reliable operations and maintenance of the power system.

**Reporting scope clarification**

The ESC should also clarify that the monthly reportable requirements in section 13 are for the clauses outlined in Schedule 1 as the civil penalty requirements.

Should you have any queries on this response please feel free to contact [REDACTED]  
[REDACTED]

Yours sincerely,



Dominic Adams

**General Manager - Networks**

Energy Networks Australia