



# Australian Energy Operations

19 April 2022

Sarah Sheppard

Executive Director, Energy

Essential Services Commission

Level 8, 570 Bourke Street

Melbourne VIC 3000

Via: Engage Victoria

Dear Sarah,

**Re: Electricity Transmission Company Land Access Draft Statement of Expectations.**

Australian Energy Operations (AEO) welcomes the opportunity to respond to the Essential Services Commission's (ESC) consultation on the Electricity Transmission Company Land Access Draft Statement of Expectations.

AEO is a transmission business that constructs, owns and operates electricity transmission assets, specialising in connecting renewable generation assets to the existing electricity network. We hold two asset-specific licences in regional Victoria covering the Elaine and Ararat Terminal Stations, collectively allowing more than 750 MW of renewable generation to connect to Victoria's transmission network. Further, these assets also have approximately 100km of transmission lines with no prior or current issues regarding land access.

AEO considers that the Statement of Expectations should:

- be clearly limited to when a licensed transmission entity uses its power under section 93 of the Electricity Industry Act 2000 (EI Act), and not extend to existing arrangements or when land access is for the purposes of vegetation management.
- ensure that the right to privacy is properly protected for all parties.
- clearly outline any reporting obligations. [REDACTED]

Should the scope be limited to how transmission companies exercise their powers pursuant to section 93 of the EI Act to access land, we largely support the ESC's proposed Statement of Expectations and the principles contained therein.

With an appropriately confined scope, we feel that the obligations imposed by the Statement of Expectations strike an appropriate balance between a transmission companies statutory right to access private lands and the rights of those affected by that exercise of that power.



### **Scope should be limited to use of the s93 power**

The Statement of Expectations should clarify that it only applies to circumstances where a licensed transmission company seeks to access land pursuant to their powers under section 93 of the EI Act.

Transmission entities may be subject to existing requirements governing the process to access private land. These requirements may arise through planning permits, registered easements, land access agreements, leases, licences or other arrangements with a landholder. These existing arrangements with landowners should not be altered.

Should the Statement of Expectations apply beyond the use of the section 93 power and govern existing arrangements, then it may result in conflicting obligations for transmission entities. It may also inappropriately and retrospectively:

- alter existing easement access rights, where the landowner would have received financial compensation reflective of the rights associated with the easement and the impact on the property and its valuation at the time the easement was granted
- recast terms of leases,<sup>1</sup> undermining the purpose of the transmission entity entering into leasing arrangement in the first place
- recasting terms of licences,<sup>2</sup> by imposing additional obligations into licence agreements that have been negotiated and agreed to between a transmission company and a landowner.

In light of the above, existing arrangements with landowners should take primacy over the Statement of Expectations. Consequently, the Statement of Expectations should only apply where such arrangements are not in place and the transmission entity relies on its power under section 93 of the EI Act to enter land.

### **Access to land for vegetation management purposes must be outside of scope**

When a transmission entity enters land for the purposes of tree cutting or the removal of vegetation in the vicinity of powerlines, they are entering using powers provided under the Electricity Safety Act and associated regulations.

Clear requirements governing the arrangements for access to land for vegetation management purposes are contained in the legislation and regulations. For example, many of the obligations contained in the Statement of Expectations such as providing notice, providing a dispute resolution process and providing the contact details of a responsible person should an affected person have any concerns are already reflected in the Electricity

---

<sup>1</sup> A lease provides the lessee exclusive possession of the leased premises and where the transmission company is the lessee, they have the right to exclude all other people from the premises.

<sup>2</sup> A licence agreement is a binding agreement between a licensor and a licensee that grants the licensee permission to use or possess the licensor's property for a specified term.



Safety Act, the Electricity Safety (Electric Line Clearance) Regulations 2015, and the Code of Practice for Electric Line Clearance.

Vegetation management obligations are imposed to minimise the risks to the community and the environment caused by the interaction of trees and powerlines. This includes the risk that such interaction may cause faults resulting in power outages and/or damage to network assets, start bushfires or create electrical safety hazards.

If the Statement of Expectations were to be applied on top of the already existing legislation relating to vegetation management, individual landowner rights will be disproportionately represented when contrasted against community values towards safety.

**Right to privacy for landowners and neighbours must be maintained**

Any reference to consulting with a landowner's neighbours should be removed the Statement of Expectations. We are concerned with the example provided in principle six, suggesting a transmission company should make enquiries with neighbouring properties as a fallback measure when unable to contact the registered landowner of the property to be accessed. We consider this conflicts with principle 14 setting out the requirement to maintain confidentiality and respect privacy.

The potential requirement to liaise with a property owners neighbours could place a neighbour and/or landowner in a difficult position. For example, the neighbour may not know the identity of the neighbouring landowner; the neighbour may not wish to reveal where the landowner is on a given day; there may be a dispute between the parties; or the neighbour may not wish to be disturbed.

**Reporting requirements must be clearly outlined**

We seek greater clarity on the data and information requirements anticipated by the ESC for a transmission entity to report how it meets the Statement of Expectations. Any reporting obligations should be clearly specified, with sufficient time provided to the transmission entity to establish systems to capture the data, and only apply on a prospective basis.

Should you have any queries please do not hesitate to contact Trent Gibson on [REDACTED] or [REDACTED]

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Glen Thomson'.

**Glen Thomson**

Chief Executive Officer  
Australian Energy Operations