



# Land Access Code of Practice

Version 1

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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 of *electricity transmission companies* to access *private land* to provide essential services, and the rights of those interested in the land who are affected by that exercise of power;
  - (b) regulate how *electricity transmission companies* access *private land* using powers derived from section 93 of the *Act*, where attempts to enter into an *access agreement* have been unsuccessful;
  - (c) establish conditions for *electricity transmission companies* when exercising powers under section 93 of the *Act*, including consultation and notice requirements;
  - (d) regulate information *electricity transmission companies* must provide to persons interested in the land prior to 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.
- 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 1 March 2024.

## 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 7.2 of this Code of Practice.

**Act** means the *Electricity Industry Act 2000*.

**affected party or 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*.

**biosecurity management plan** means a management plan developed to identify relevant controls for biosecurity risks, including a biosecurity management plan developed in 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*.

**best endeavours** in relation to a person, includes acting in good faith and doing all that is reasonably necessary in the circumstances.

**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*.

**easement** means an easement that permits access to the relevant land, including an easement obtained by agreement or acquired under section 86 of the *Act* or any other relevant statutory power.

**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 or 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:

- (a) the safety or health of any person;
- (b) the safe, secure or reliable operation of the electricity transmission system; or
- (c) any land or property.

***energy ombudsman*** means the Energy and Water Ombudsman (Victoria) Limited;

***existing electricity transmission assets*** means electricity transmission assets that existed as at the commencement date of this Code of Practice.

***land access related information*** means any information related to access by an *electricity transmission company* to *private land*, other than land access for operating or maintaining existing electricity transmission assets or land access under an *easement*, including:

- (a) records of all contact with *affected parties* related to land access;
- (b) any photographs or videos taken while accessing *private land*; and
- (c) 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;
- (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 7.2.2 of this Code of Practice.

***new transmission project or upgrade*** means any project that involves, or is proposed to involve, works undertaken by an *electricity transmission company* on *private land* that are expected to commence the construction phase after the commencement date of this Code of Practice and:

- (a) prior to undertaking those *works*, the relevant land does not contain any existing *electricity transmission assets*; or
- (b) the project involves an augmentation to *existing electricity transmission assets* located on that land or on some of that land, other than:
  - (i) where the electricity transmission company has existing *access agreements* with all affected parties or easements; and
  - (ii) those *access agreements* or *easements* permit land access for those *works*.

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

**occupier** of land means a person who has possession or occupation of the land either by a lease, licence or other contractual arrangement, or otherwise has the management or control of the land;

**Note:** the definition of “occupier” is not intended to cover persons such as those authorised to enter land in accordance with the *Telecommunications Act 1997* (Cth).

**operating or maintaining, in relation to existing electricity transmission assets:**

- (a) includes undertaking any activities that are related to operating those assets or maintaining those assets;
- (b) does not include activities that are related to upgrading all or a substantial part of those assets, replacing all or a substantial part of those assets or decommissioning all or a substantial part of those assets.

**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*:

- (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 or recorded 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 an equitable or legal 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*.

**personal information**, as per the *Privacy and Data Protection Act 2014* (Vic) means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the *Health Records Act 2001* applies.

**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*;
- (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
  - (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;
- (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*.

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

provided by one of the following methods, unless a provision of this Code of Practice expressly requires or permits other methods:

**(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:
  - (A) by placing it in the person's presence and telling the person the nature of the notice, information or other document; or
  - (B) if (A) is not reasonably practicable, by placing it at the person's premises;
- (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;
- (iii)** by sending it by post to the last known address of the place of residence of the person;
- (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
- (v)** for information on proposed access under clause 6.2.1 or a *notice of access* under clause 7.1 where the person is a *landowner* or *occupier* whose interest is registered or recorded on the title of the land that is proposed to be accessed, by sending it by post to the address of the land that is proposed to be accessed, provided that the person sending the notice has not been notified of a different address by the *landowner* or *occupier*; 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 principal place of business of the body corporate;
- (ii)** by sending it by post to the registered office of the body corporate;
- (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; or
- (iv)** for information on proposed access under clause 6.2.1 or a *notice of access* under clause 7.1 where the person is a *landowner* or *occupier* whose interest is registered or recorded on the title of the land that is proposed to be accessed, by sending it by post to the address of the land that is proposed to be accessed, provided that the person sending the notice has not been notified of a different address by the *landowner* or *occupier*.

## 3. Application

### 3.1. Application of this Code of Practice

3.1.1. This Code of Practice applies to *electricity transmission companies* in relation to:

- (a) information that must be provided to *affected parties* and *other parties interested in land* prior to entering into *access agreements* or accessing *private land* under section 93 of the *Act* set out in Part 2 of this Code of Practice;
- (b) access or proposed access to any *private land* under section 93 of the *Act*, set out in Part 3 of this Code of Practice; and
- (c) the dispute resolution, record keeping and reporting obligations set out in Part 4 and Schedule 2 of this Code of Practice.

3.1.2. This Code of Practice does not apply:

- (a) to access or proposed access to *private land* under section 93 of the *Act* for the purposes of *operating or maintaining existing electricity transmission assets*.
- (b) 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 clause 13 of this Code of Practice expressly provides otherwise in relation to the reporting obligations in that Part;
- (c) where land is accessed in accordance with an *easement*; or
- (d) to land that is not *private land*.

3.1.3. Clauses 7 and 9 of this Code of Practice do not apply when land is accessed in accordance with an *access agreement*.

3.1.4. Where contractors 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 its contractors' compliance with this Code of Practice; and
- (b) must implement appropriate processes and training in relation to compliance with this Code of Practice by its contractors.

## 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*, prior to entering into an *access agreement* or accessing land under section 93 of the *Act*. The purpose of the requirements is to ensure consultation and provision of information occurs in a manner that:
- (a) involves timely, staged and relevant 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*;
  - (c) takes into account property-specific needs related to accessing of *private land*;
  - (d) enables *affected parties* to understand the nature and potential impact of the proposed access to *private land*, their rights and the rights and obligations of the *electricity transmission company* under the *Act*;
  - (e) enables *affected parties* to understand the details of how access to *private land* is proposed to occur, and involves consultation with them before finalising those details;
  - (f) enables *affected parties* to make informed decisions whether to enter into an *access agreement*; and
  - (g) enables *affected parties* to understand how land access under section 93 of the *Act* would take place if an *electricity transmission company* issues a *notice of access*.

### 5. Communication and engagement

#### 5.1. Information about new transmission projects or upgrades

- 5.1.1. In relation to each *new transmission project or upgrade* proposed to be undertaken by an *electricity transmission company*, the *electricity transmission company* must publish on its website:
- (a) as soon as reasonably practicable in the planning phase of the *new transmission project or upgrade*, details of the *new transmission project or upgrade*, and the proposed timeline and key milestones for the *new transmission project or upgrade*;
  - (b) updated versions of the information in paragraph (a), as soon as reasonably practicable if that information changes;

- (c) a summary in plain English of the *electricity transmission company's* obligations under this Code of Practice, including the option to enter into an *access agreement*, and the rights of *affected parties* under section 93 of the *Act*;
- (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 stage(s) of the *new transmission project or upgrade*; and
- (e) timely updates of progress of the *new transmission project or upgrade*.

## 5.2. Obligation to consult

5.2.1. An *electricity transmission company* must consult with *affected parties* and *other parties interested in land* in accordance with this Part 2 of this Code of Practice where applicable, prior to accessing land under section 93 of the *Act* or entering into an *access agreement*.

5.2.2. Before accessing *private land* under section 93 of the *Act*, or entering into an *access arrangement*, an *electricity transmission company* must:

- (a) identify all *affected parties* and *other parties interested in land* and keep a written record of the steps it has taken to identify those parties;
- (b) inform all *affected parties* and *other parties interested in land* of the proposed access to *private land*, including providing the information at clauses 5.1, if applicable, and 5.3.1 of this Code of Practice;
- (c) inform all *affected parties and other parties interested in land* identified at clause 5.2.2.(a) of the opportunities to participate in consultation on the *works* for which the land access will relate and on the proposed land access;
- (d) consult with *affected parties* to understand:
  - (i) site specific biosecurity needs, including any applicable *biosecurity management plans*;
  - (ii) property-specific needs associated with fire risks;
  - (iii) property-specific needs associated with health risks; and
  - (iv) property-specific needs associated with cultural heritage protection.

## 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 first name, role, telephone number and email address. An *electricity transmission company* is not required to provide the full name of the point of contact.

5.3.2. An *electricity transmission company* must respond without reasonable delay, to contact made by an *affected party* or *other parties interested in land* related to land access:

- (a) during business hours; or
- (b) where the reason for contact reasonably necessitates, outside of business hours.

## 5.4. Communication and engagement

- 5.4.1. An *electricity transmission company* must have regard to and consider feedback and any land access requirements from all *affected parties* and *other parties interested in land* before entering land under section 93 of the *Act*, or before entering into an *access agreement*.
- 5.4.2. An *electricity transmission company* must ensure that prior to any person contacting *affected parties* or *other parties interested in land* on its behalf about proposed land access under section 93 of the *Act*, or entry into a proposed *access agreement*, that person:
- (a) has the relevant skills, training, and qualifications to undertake their allocated tasks in accordance with this Code of Practice; and
  - (b) has had training in appropriate and effective stakeholder engagement, including training on engagement with Traditional Owners and training on the requirements of this Code of Practice; and
- 5.4.3. An *electricity transmission company* must ensure that any person making contact with any *affected parties* or *other parties interested in land* regarding proposed land access under section 93 of the *Act*, or entry into a proposed *access agreement* on behalf of the *electricity transmission company*:
- (a) identifies themselves and who they work for and the full purpose of the contact in any communications (including by telephone, email or in person); and
  - (b) carries appropriate identification in accordance with clause 5.4.4 of this Code of Practice, sufficient to identify that person and who they work for, when accessing any land and produces that identification on request by any person.
- 5.4.4. In meeting its obligations under clause 5.4.3 of this Code of Practice, an *electricity transmission company* is not required to disclose (or require the individuals to disclose) the surname of individuals acting for or on its behalf, provided:
- (a) all individuals accessing *private land* have identification in accordance with clauses 5.4.3 (b) of this Code of Practice that an *affected party* can inspect upon request and readily verify the authenticity of the identification with the *electricity transmission company*, or
  - (b) all individuals accessing *private land* have written authorisation provided by the *electricity transmission company* that an *affected party* can inspect upon request and readily verify the authenticity of the written authorisation with the *electricity transmission company*.
- 5.4.5. 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 by *affected parties* and *other parties interested in land*; and
- (b) include contact details of translation and interpreting services.

**5.4.6.** On written request from an *affected party*, an *electricity transmission company* must provide to that *affected party* the outcomes of its surveys and other relevant investigations in relation to the *land* owned or occupied by that *affected party*, other than *personal information* about another person, confidential information or commercially-sensitive information.

**5.4.7.** If a request is made by an *occupier*, the *electricity transmission company* is only required to provide information to the *occupier* under clause 5.4.6 if the request provides evidence of the written consent of the *landowner* to the provision of that information to the *occupier*.

## 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;
- (d) mitigation and compensation protections that apply to access under section 93 of the *Act*, including obligations for making full compensation for any damage sustained and any requirements regarding compensation that may apply under the *Land Acquisition and Compensation Act 1986*;
- (e) how the rights and obligations of the *electricity transmission company* and the rights of *affected parties* differ under:
  - (i) land access under section 93 of the *Act*; and
  - (ii) the terms of any *access agreement*;
- (f) 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*; and
- (g) the right of *affected parties* to refer a *complaint* (related to access under section 93 of the *Act* or to compliance with this Code of Practice) to the *energy ombudsman*, if they are not satisfied with an *electricity transmission company's* response in relation to the *complaint*, and include the contact details of the *energy ombudsman* in accordance with clause 11.1.1 of this Code of Practice.



## 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) how the proposed land access interacts with environmental, planning and other relevant statutory approval processes;
- (b) 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);
- (c) the proposed dates for each instance of access over the *access period* and a request for the *affected party* to provide feedback on the suitability of the proposed dates, which may consist of:
  - (i) an intended specific date of access; or
  - (ii) options for specific dates of access; or
  - (iii) a range of dates, which must not be more than seven calendar days apart;
- (d) the proposed *access period* for access under section 93 of the *Act*;
- (e) the estimated duration of each instance of access;
- (f) any foreseeable variables (both general and specific) that may affect the planned dates or duration of access;
- (g) the purpose of access and the types of activities to be conducted on the land during access;
- (h) the area or areas of land for which access is required and the expected point or points of entry, provided this information can be reasonably identified prior to gaining physical access;
- (i) any equipment or chemicals expected to be brought onto the land and the purpose they will be used for;
- (j) the number of people expected to enter the land on behalf of the *electricity transmission company* each instance of access and the organisations they represent;
- (k) how the *electricity transmission company* will comply with land management obligations, including biosecurity laws and any applicable *biosecurity management plans*;
- (l) the period of notice that will be provided prior to accessing land;
- (m) how reminders in accordance with clause 7.1.3 of this Code of Practice and any changes to the proposed dates or details of access will be communicated, which



may include delivering a notice in person in accordance with clause 2.2.1 of the Code of Practice or by telephone, email or text message;

- (n) 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
- (o) an explanation of how the *affected party* can provide comments on any of the information provided under this clause and request changes to the proposed dates or details of access; and
- (p) the right of *affected parties* to refer a *complaint* related to access under section 93 of the *Act* or compliance with this Code of Practice to the *energy ombudsman* if they are not satisfied with an *electricity transmission company's* response in relation to the *complaint* and the contact details of the *energy ombudsman* in accordance with clause 11.1.1 of this Code of Practice.

**6.2.2.** If an *affected party* asks the *electricity transmission company* questions, provides feedback or requests changes in relation to any of the matters set out in the information provided under clause 6.2.1:

- (a) the *electricity transmission company* must consider the feedback or requested changes in good faith; and
- (b) promptly provide an answer to the questions or a response to the feedback or requested changes in writing, including providing the reasons for not accepting the feedback or requested changes.

## 7. Notice of access under section 93

### 7.1. Notice of access

**7.1.1.** After providing information in accordance with clauses 6.1.1 and 6.2.1, in the absence of an *access agreement*, 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 sent at least 20 *business days* after providing information on access rights and obligations in accordance with clause 6.1.1 and on the proposed access in accordance with clause 6.2.1 and at least 10 *business days* prior to the start of the *access period*; and
- (b) specify:
  - (i) the access period;
  - (ii) the planned dates and times of access to land during the *access period*;
  - (iii) details of the access, including the information in clauses 6.2.1(f) to (m) or any updates to that information; and

- (iv) the right of *affected parties* to refer a *complaint* related to access under section 93 of the *Act* or compliance with this Code of Practice to the *energy ombudsman* if they are not satisfied with an *electricity transmission company's* response in relation to the *complaint* and the contact details of the *energy ombudsman* in accordance with clause 11.1.1 of this Code of Practice.

**7.1.3.** An *electricity transmission company* must send a reminder to each *affected party* at least 48 hours before each proposed access during the *access period*.

**7.1.4.** A reminder under clause 7.1.3 must be sent to the affected party by:

- (a) delivering a reminder notice in writing in person, in accordance with clause 2.2.1 of this Code of Practice; or
- (b) telephone, email or text message, provided the *affected party* has been provided with information that a reminder may be sent via such means (in accordance with clause 6.2.1(m) of this Code of Practice).

## **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*).

**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 the expiry of the previous *notice of access*) that:

- (a) explains why continued access to the land is necessary; and
- (b) 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 (m).

## **7.3. Changes to notified access**

**7.3.1.** An *electricity transmission company* must not postpone or change the dates or times of access from the dates and times set out in the *notice of access*, or change any details of access that were set out in the *notice of access*, unless the postponement or change is due to circumstances beyond the reasonable control of the *electricity transmission company*.

**7.3.2.** For any postponement or change under clause 7.3.1, an *electricity transmission company*

must use its *best endeavours* to:

- (a) contact the *affected parties* at least 48 hours before the original planned date and time of access set out in the *notice of access*;
- (b) use the form of communication for such changes set out in the *notice of access*, or via telephone, email or text message; and
- (c) detail the changes and the reason(s) for the changes.

**7.3.3.** An *affected party* may request that the *electricity transmission company* change 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.

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

- (a) consider the request in good faith;
- (b) advise the *affected party* whether it agrees to the request;
- (c) advise all *affected parties* impacted by the request of the amended date and time of the proposed access if it agrees to the request; and
- (d) promptly provide reasons to the *affected party* if it does not agree to the request, before accessing in accordance with the dates and times set out in the *notice of access*.

## **7.4. Exceptions to consultation and notice requirements**

**7.4.1.** Notice requirements in Clause 7 of Part 2 of this Code of Practice do not apply from when all *affected parties* of the *private land* have entered into an *access agreement*.

**7.4.2.** Part 2 of this Code of Practice does not apply in an *emergency*.

**7.4.3.** 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*.

## 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 impose requirements on *electricity transmission companies* when accessing *private land* under section 93 of the *Act*. The purpose of which is to minimise the impact of land access on *affected parties*, and on the land itself. These requirements are in addition to the 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 *private 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 the *Act* and this Code of Practice; and
  - (b) respect the privacy, private assets and existing infrastructure on the land of *affected parties*.

#### 9.2. Risk minimisation during access

- 9.2.1. When accessing *private land*, an *electricity transmission company* must:
- (a) cause as little harm, inconvenience and damage as possible to the land and anything living on or growing on the land;
  - (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) where possible and appropriate, limit attendance to those people reasonably required to perform *works* or facilitate safe and lawful access;
  - (e) to the extent that is reasonably practicable, leave all gates, fences, grids and any

other assets as near as possible in the condition in which they were found, unless otherwise directed by or agreed to by an *affected party*;

- (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 on the land.

### **9.3. Biosecurity controls**

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

- (a) develop and implement biosecurity policies and procedures in accordance with good industry practice to minimise the spread of weeds, pests or pathogens, including where appropriate “come clean, stay clean, go clean” practices consistent with recommendations by Agriculture Victoria; and
- (b) provide *affected parties* with details of any applicable biosecurity policies and procedures on request before accessing land; and
- (c) document any environmental or biosecurity incidents that have occurred when accessing land and communicate the incidents and how they have been managed to *affected parties* immediately.

### **9.4. Fire risk management**

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

- (a) develop and implement policies and procedures to identify and mitigate fire risks in a manner consistent with its *bushfire mitigation plan*; and
- (b) provide *affected parties* with access to its *bushfire mitigation plan* and any other relevant fire risk management policies and procedures on request; and
- (c) document any fire related incidents that have occurred when accessing land and communicate the incidents and how they have been managed to *affected parties* immediately.

### **9.5. Health risk management**

**9.5.1.** An *electricity transmission company* must take the following actions in relation to health risks associated with access to *private land*:

- (a) develop and implement policies and procedures in relation to health risks associated with land access; and

- (b) provide *affected parties* with access to any applicable health risk management policies and procedures on request; and
- (c) document any health incidents that have occurred when accessing land and communicate the incidents and how they have been managed to *affected parties* immediately.

## **9.6. Provision of reports and information to affected parties**

- 9.6.1.** An *electricity transmission company* must provide a report to *affected parties* within 15 *business days* after land access to the relevant property has concluded.
- 9.6.2.** A report under clause 9.6.1 must include the number of personnel in attendance each time the land was accessed, locations accessed, materials or chemicals used and a description of the activities undertaken on the land in relation to biosecurity controls, fire risk management and health risk management.
- 9.6.3.** If an environmental, biosecurity, fire or health incident occurs on *private land* that was accessed by an *electricity transmission company* and an *affected party* reasonably requests information from the *electricity transmission company* related to its access to that *private land* to assist the *affected party* to respond to the incident, the *electricity transmission company* must provide the requested information as soon as is reasonably practicable.

## PART 4: Dispute resolution, record keeping and reporting

### 10. Objectives of this Part

#### 10.1. Objectives

10.1.1. The objective of this Part is to introduce ongoing obligations on *electricity transmission companies* to facilitate dispute resolution and monitor compliance with this Code of Practice by requiring *electricity transmission companies* to:

- (a) implement respectful and responsive complaints-handling and dispute resolution processes in relation to issues raised by *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. An *electricity transmission company* who has an obligation under this Code of Practice must enter into a dispute resolution scheme with the *energy ombudsman* for the purpose of this clause 11 and remain a participant in that scheme until such time as:

- (a) it is not intending to engage in any activity which would be subject to this Code of Practice; and
- (b) any *complaint* received by the *electricity transmission company* related to access or proposed access to *private land* under section 93 of the *Act*, or compliance with this Code of Practice, including any matter referred to the *energy ombudsman*, has been resolved.

11.1.2. An *electricity transmission company* who has an obligation under this Code of Practice must take the following actions in respect of *complaints* and disputes raised by an *affected party* in relation to access or proposed access to *private land* under section 93 of the *Act*, or compliance with the Code of Practice:

- (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) when providing a response to a *complaint*, inform *affected parties* in writing about their right to refer a *complaint* to the *energy ombudsman* if *affected parties* are not satisfied with an *electricity transmission company's* response in relation to the *complaint*; and
- (e) when providing a response to a *complaint*, provide *affected parties* with the contact details of the *energy ombudsman*.

**11.1.3.** For the avoidance of doubt, for the purpose of clause 11.1.1 and the matters set out in clause 11.1.2 of this Code of Practice, the role of the *energy ombudsman* as the dispute resolution scheme is to resolve *complaints* in relation to access or proposed access to *private land* under section 93 of the *Act*, or compliance with this Code of Practice.

## 12. Record keeping

### 12.1. Keeping records relating to land access

**12.1.1.** An *electricity transmission company* must retain all *land access related information* for a period of seven years.

**12.1.2.** An *electricity transmission company* must:

- (a) keep an accurate, complete and up-to-date 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
- (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* who has an obligation under this Code of Practice, 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 or *personal information*, the *electricity transmission company* must:



- (a) clearly identify the confidential and/or *personal information* included in the document;
- (b) provide reasons for the identification of the information as confidential information; and
- (c) provide a publicly accessible version of the report with the confidential and/or *personal information* redacted, removed, aggregated or de-identified in a manner that protects confidentiality and privacy when published by the *commission*.

## 13.2. Requirement to provide monthly performance reports

- 13.2.1. An *electricity transmission company* must provide to the *commission* monthly performance reports in accordance with clause 13.2.2 of this Code of Practice.
- 13.2.2. An *electricity transmission company* must provide the *commission* with monthly performance reports:
  - (a) where *private land* is accessed during the relevant month under s93 of the *Act* or via an *access agreement*;
  - (b) other than for the purpose(s) of *operating or maintaining existing electricity transmission assets*;
  - (c) in writing, in the form approved by, and notified to, the *electricity transmission company* by the *commission* in writing; and
  - (d) prepared in accordance with clauses 13.2, 13.3, 13.4 and 13.5 of this Code of Practice.

## 13.3. Timing of monthly performance reports

- 13.3.1. The monthly performance report for a month must be provided to the *commission* on or before the tenth *business day* of the following month.

**Note:** Following the commencement date of this Code of Practice, the first monthly performance report must be provided to the *commission* by 12 April 2024.

## 13.4. Scope of monthly performance reports

- 13.4.1. The information required to be contained in a monthly performance report under clauses 13.5.1(a) and (b) of this Code of Practice only applies to *access agreements* that have been entered into, or where negotiation has occurred subsequent to, the commencement date of this Code of Practice.
- 13.4.2. The information required to be included in a monthly report under clauses 13.5(1)(e), (f), (h) and (k) of this Code of Practice, applies to *private land* accessed under *access agreements* entered into prior to the commencement date of this Code of Practice.
- 13.4.3. For the purposes of clause 13.5.1 of this Code of Practice, each day of land access and each parcel of land must be identified and counted separately, even if multiple instances of land access are conducted pursuant to a single *notice of access* or *access agreement*.

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

**13.5.1.** A monthly performance report must contain the following information in relation to land access undertaken by the *electricity transmission company* during the relevant month, other than for land access activities for *operating or maintaining existing electricity transmission assets*:

- (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 documents with information on proposed access issued in accordance with clause 6.2.1 of this Code of Practice during the month;
- (d) the number of *notices of access* issued in accordance with clause 7 of this Code of Practice during the month;
- (e) the total number of *private land* parcels that were accessed during the month, including access under an *access agreement* and under section 93 of the *Act*;
- (f) the number of *private land* parcels that were accessed during the month under an *access agreement*;
- (g) the number of *private land* parcels that were accessed during the month under section 93 of the *Act*, and in each instance the days between issuing a *notice of access* and access occurring;
- (h) the number of *affected parties* that had *private land* accessed and:
  - (i) the total number of *affected parties* that had *private land* accessed in accordance with an *access agreement*; and
  - (ii) the total number of *affected parties* that had *private land* accessed under section 93 of the *Act*;
- (i) the number of times each *affected party* was contacted in accordance with clause 7.3 of this Code of Practice in relation to postponing or changing the dates or times of access from the planned dates and times already notified and set out in the *notice of access*, or change any details of access that were set out in the *notice of access*;
- (j) in relation to each time access was postponed or changed in accordance with Clause 7.3 of this Code of Practice:
  - (i) the number of hours in advance each *affected party* was contacted;
  - (ii) the number of additional days or hours each *private land* parcel was accessed; and
  - (iii) a description of the reasons why access was rescheduled;
- (k) 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 by the *energy ombudsman* or other applicable external dispute resolution body in relation to the *electricity transmission company* that have been notified to the *electricity transmission company*;
- (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.

### **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.

# 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*.

<b>PART 2: Obligations prior to accessing land</b>	Communication and engagement: 5.1.1; 5.2.1; 5.2.2; 5.3.1; 5.3.2; 5.4.1; 5.4.2; 5.4.3; 5.4.5; 5.4.6  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; 7.1.4; 7.2.2; 7.2.4; 7.3.1; 7.3.4; 7.4.3
<b>PART 3: Obligations during land access under section 93</b>	Requirements when accessing land: 9.1.1; 9.2.1; 9.3.1; 9.4.1; 9.5.1; 9.6.1; 9.6.2; 9.6.3
<b>PART 4: Dispute resolution, record keeping and reporting</b>	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; 13.2.2, 13.6.2

## SCHEDULE 2: Reporting obligations for breaches

### Part 1: Electricity transmission companies' compliance reporting obligations

1. This Part sets out electricity transmission companies' compliance reporting obligations, as summarised in Table 1 below.

**Table 1: Summary of electricity transmission companies' compliance reporting obligations**

Reporting obligation	Frequency	Timing
<b>Type 1</b>	As required	Within two business days of detection.
<b>Type 2 breaches</b>	As required	Within 30 calendar days of detection.
<b>Annual report</b>	Annually	For the period 1 July to 30 June – on or before 31 August.

2. Under the breach classification tables in Tables 1 and 2 below, regulatory obligations are classified as type 1 or type 2.
3. All actual and potential breaches of type 1 obligations as prescribed in Table 2 must be reported to the commission within two business days of detection.
4. If a licensee submits an incomplete report because the investigation is ongoing, the licensee must provide a complete report within 20 business days from the date it was originally reported to the commission.
5. All actual and potential breaches of type 2 obligations as prescribed in Table 3 must be reported to the commission within 30 calendar days of detection.
6. A breach is detected where a business has reasonable grounds to believe a reportable situation has arisen. That is, a business knows of facts or has sufficient evidence to consider that a breach has occurred.

**Table 2: Type 1 breaches – electricity transmission companies**

<b>Land Access Code of Practice</b>	Clauses 9.2.1(a), 9.3.1, 9.4.1
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**Table 3: Type 2 breaches – electricity transmission companies**

<b>Land Access Code of Practice</b>	Clauses 5.1.1, 5.2.1, 5.2.2, 5.3.1, 5.3.2, 5.4.1, 5.4.2, 5.4.3, 5.4.5, 5.4.6, 6.1.1, 6.2.1, 6.2.2, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.2.2, 7.2.4, 7.3.1, 7.3.2, 7.3.4, 7.4.3, 9.1.1, 9.2.1(b), 9.2.1(c), 9.2.1(d), 9.2.1(e), 9.2.1(f), 9.2.1(g), 9.5.1, 9.6.1, 9.6.2, 9.6.3, 11.1.1, 11.1.2, 12.1.1, 12.1.2
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## Annual report

A summary of all type 2 breaches and any other breaches identified during the period must be submitted annually.

7. The CEO or Managing Director of the electricity transmission company must sign these reports.
8. Electricity transmission companies will need to submit a nil compliance report in instances where the electricity transmission company has no breaches to report for a relevant annual reporting period.

## Form and content of breach reports

9. All breach reports must be made using the relevant electricity transmission companies' compliance reporting template located on our website. All breach reports must be submitted via the Retailer Distributor Portal.<sup>1</sup>

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<sup>1</sup> The Retailer Distributor Portal is maintained by the commission and is the information gateway between licensees and the commission. Available here: [Retailer Distributor Portal](#) Login

**Part 2: Electricity transmission companies’ performance reporting obligations**

- 10. This Part sets out electricity transmission companies’ performance reporting obligations (as summarised in Table 4 below).
- 11. All submissions of performance data must be submitted via the Retailer Distributor Portal.
- 12. Where an electricity transmission company has no relevant performance data to report for a relevant period the electricity transmission companies is required to submit the applicable template.
- 13. The template should note that the transmission companies have no performance data to report for the relevant period.

**Table 4: Summary of electricity transmission companies’ performance reporting obligations**

Reporting obligation	Frequency	Timing
Monthly performance reports	Monthly	<ul style="list-style-type: none"><li>For each month, on or before the tenth business day of the following month.</li><li>Following the commencement date of this Code of Practice, the first monthly performance report must be provided to the <i>commission</i> by 12 April 2024.</li></ul>