

# What to expect when a transmission company proposes access to private land



Information for landowners

## Land Access Code of Practice

The Essential Services Commission has developed a Land Access Code of Practice to regulate how electricity transmission companies can use their existing statutory right to access private land under section 93 of the *Electricity Industry Act 2000*.

Where a transmission company and a landowner

r (or occupier) cannot enter into a voluntary access agreement, a transmission company may exercise statutory powers to access private land to plan, design and construct new transmission projects. A transmission company can also use its statutory powers to undertake works on existing transmission assets.

From 1 March 2024, transmission companies must follow the Land Access Code of Practice processes before, during and after accessing private land.

As the Victorian independent regulator, the commission has the power to enforce compliance by transmission companies with the obligations contained in the code of practice, including by:

- issuing penalty notices
- issuing compliance notices
- commencing legal proceedings

## What can I expect from a transmission company that wants to access my land for a new project or relevant upgrade?

### Before accessing land

The code of practice contains rules about how and when a transmission company must engage with and provide information to landowners, occupiers and other parties interested in land. These obligations aim to improve consultation and engagement with landowners and other affected parties at an early stage of a new transmission project and early in the process in relation to works on existing transmission assets regulated under the code of practice.





The information that a transmission company must provide to landowners includes that about access agreements, as an alternative to entering private land under section 93 of the Act. Access agreements are a voluntary legal agreement entered into between a landowner and the transmission company.

This is also a crucial stage in the land access process where an affected party can ask questions and provide feedback, including feedback on their preferred dates for a transmission company to access land or the terms of any proposed access agreement.

**Note:** the obligations before accessing land do not apply in the case of an emergency where immediate land access is required. However, a transmission company is required to provide affected parties with details of the access as soon as they can. This must include information on the time, duration and purpose of access and your rights under section 93 of the Act.

### During land access under section 93 of the Act

If an access agreement is not entered into, the code of practice regulates how transmission companies can exercise their statutory right to access private land. These obligations aim to minimise the impacts of land access by introducing general risk minimisation obligations and specific environmental, fire and health risk management obligations.

### After accessing land

The code of practice contains ongoing dispute resolution, record keeping and reporting obligations after accessing land.

### When does the Land Access Code of Practice apply?

The code of practice regulates land access for all stages of new transmission projects and for relevant upgrades to existing transmission assets, including augmentation, extension or decommissioning of lines.

Transmission companies have two options for land access:

- **Option 1: Enter into an access agreement with individual landowners.**
  - Access agreements typically offer greater flexibility for landowners and can be tailored to the specific needs of each landowner. They also allow landowners to negotiate the terms of access.



- The code of practice does not regulate land access under an access agreement or the contents of these agreements. This means the dispute resolution body could be negotiated on a case-by-case basis for access agreements.
- **Option 2: Exercise their statutory right under section 93 of the Act to enter land.**
  - We expect a transmission company to endeavour to enter into an access agreement and the exercise of statutory powers to enter land to be used where attempts to enter into an access agreement have been unsuccessful. A transmission company must comply with the code of practice when exercising such powers.
  - The Energy and Water Ombudsman of Victoria is the nominated dispute resolution body for this option.

Early parts of the code of practice apply set rules for both pathways and then deviate at the point where an access agreement is entered into/not entered into (see figure below).

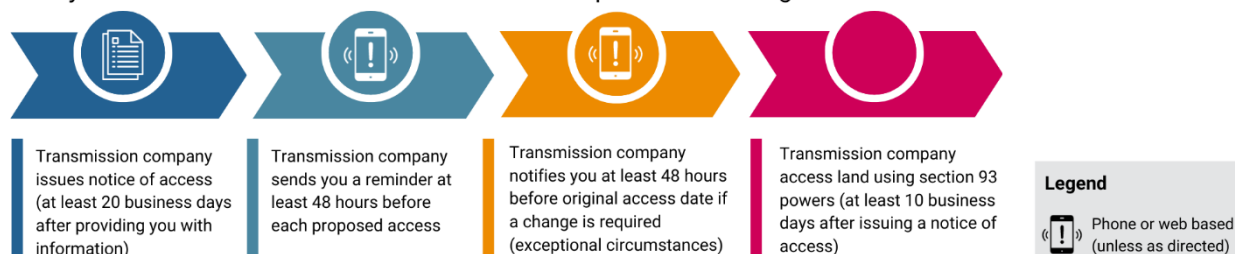


## Key requirements for transmission companies under the Land Access Code of Practice

### 1 - Key milestones before land access for all pathways



### 2 - Key milestones before land access if section 93 powers are being used



### 3 - Key milestones during land access if section 93 powers are being used



*Note: Under the Land Access Code of Practice, transmission companies must provide information about your rights in relation to compensation. However, compensation itself is not covered by the code of practice but rather s93 of the Act and other legislative instruments.*

## When does the Land Access Code of Practice not apply?

The code of practice does not apply to:

- operation and maintenance activities of existing transmission lines
- land that is not private land
- where land access is by an existing easement.





## Access agreements

The code of practice does not regulate the content of access agreements and they are not an exercise of power under s93 of the Act. A transmission company and landowner may negotiate the terms of the agreement, including negotiated access dates.

The code of practice requires a transmission company to provide detailed information to a landowner to help them make informed decisions when deciding to enter into an access agreement.

## How do I lodge land access complaints or disputes?

You have the right to lodge a complaint:

- if you have concerns about how a transmission company is using section 93 powers to access land
- if you think that a transmission company is not complying with the code of practice.

If you have a complaint about either of the above matters:

1. **First contact the transmission company and lodge the complaint.**

Transmission companies have an obligation to provide timely responses to complaints and must implement complaint-handling processes to deal with your complaint as far as possible in the first instance.

2. **Contact the Energy and Water Ombudsman of Victoria:**

- if you believe your complaint is not being managed correctly by the transmission company
- if you are not satisfied with the outcome of your complaint.

The Energy and Water Ombudsman of Victoria is the independent third-party dispute resolution body nominated by the commission for matters related to section 93 access and compliance with the code of practice.

## How am I protected during land access?

Transmission companies must consider all the information provided by landowners, especially information relating to operational matters.

For example:





**Biosecurity** – a transmission company must have a default plan to show you which considers any existing biosecurity management plans you provide. The transmission company must develop and implement policy and procedures aligned to good industry practice and Agriculture Victoria recommendations. They must also report any incidents to you immediately.

**Fire and health risk management** – a transmission company must address property-specific needs through a bushfire mitigation plan (if one is required under the *Electricity Safety Act 1998*) and any other policies and procedures requested. Transmission companies must communicate any safety incidents to you immediately.

## Can I request a reschedule of land access if required?

If the proposed land access date doesn't suit you, you can request to reschedule land access. Transmission companies are required to reasonably consider any requests.

We recognise that there will be practical limits to allowing for rescheduling after a Notice of Access has been issued where it is close to the day of access. We encourage you to share your preferred dates for access and have a conversation with the transmission company early in the process, when receiving initial information on the proposed access.

Genuine efforts to achieve early engagement and discussion between landowners and the transmission company are critical to support a flexible land access process. This discussion should increase the likelihood of land being accessed at a time that is suitable for the landowner, occupier and the transmission company.

When these discussions or face-to-face meetings occur between a transmission company, landowner and/or other affected party, we have zero tolerance for disrespectful behaviour. This includes violence, intimidation or other similar conduct and extends to all activities before, during and after land access.

## Can transmission companies change the time of access?

Transmission companies can change the proposed time of access (for example, due to weather forecasts or unforeseen staff unavailability). However, transmission companies must act in good faith and use their best endeavours to notify you at least 48 hours before the agreed date and time, following an agreed communication method.

Note: Access agreements can allow quick and easy communication of such events. While we do not regulate these agreements, they can give you greater flexibility.



## **For more information:**

See the commission's website for more information about the Land Access Code of Practice:

[Developing a Land Access Code of Practice | Essential Services Commission](#)

