

1 August 2023

Ms Sarah Sheppard
Chief Executive Officer
Essential Services Commission
Level 8, 570 Bourke Street
Melbourne Victoria 3000

Locked Bag 14051
Melbourne City Mail Centre
Victoria 8001 Australia
T: 1300 360 795
www.ausnetservices.com.au

Submitted via energyreform@esc.vic.gov.au

Dear Sarah

Response to the Land Access Code of Practice draft determination

AusNet Pty Ltd (**AusNet**) appreciates the opportunity to provide a submission to the Essential Services Commission's (**Commission**) *Making a Land Access Code of Practice* draft determination.

We support the establishment of the Land Access Code of Practice to promote quality and constructive land access engagement practices. The Commission's leadership on landowner and broader community engagement practices is essential in strengthening our regional communities and laying the foundations for our renewable future – more than 65% renewable generation by 2030 and 95% by 2035. Achieving these outcomes requires further focus to balance the needs of landholders, Traditional Owners, and everyone interested in our environmental future.

Through early and extensive engagement licensees and landholders can establish effective relationships and have opportunities to organise land access when it best suits all parties. Licensees only use of s93 after this extensive engagement has already occurred to undertake the necessary the surveys and activities to build the transmission lines that are pivotal to providing Victorians with wind and solar electricity. We are heavily invested in using best practices for landholder engagement, biosecurity and respectful two-way communications. The regulatory framework for land access should support best practice and early engagement while maintaining land access rights for licensees abiding with the framework.

The Commission's draft determination provides a regulatory framework that transmission licensees must follow seeking access to private land to deliver critical transmission projects. However, there are aspects of the proposed Code of Practice that will stifle progress on the development of renewable energy projects, deteriorate community relationships and unless implementation is staggered cause current projects to halt for months. We urge the Commission to address these problems in finalising the Making the Land Access Code of Practice review, including:

- Proposed process obligations that subject planned land access to disruptive delays at short notice, cause longer lead times and compromise the safety of our staff; and
- The proposed scope regulates post-construction activities for existing lines, such as inspections and bushfire mitigation clearance, without demonstrating there is a problem to solve and justifying the step change in regulation.
- It does not include any incentives for positive behavioural standards and cooperation between landholders and licensees.

Our attached submission document examines with these considerations and suggests improvements to best achieve the energy transition all while respecting the interests of all parties involved. We are informed by our lived experience of the interim Electricity Transmission Company Land Access Statement of Expectations. Additionally, our submission includes the substantive issues and recommendations improvements, answers to the questions asked in the draft determination, and suggestions to improve the drafting of selected clauses of the draft Land Access Code of Practice.

Through further engagement with you we can set the right balance in these obligations to build trust and succeed in the energy transition. In this regard, we would like to meet with you and your staff to collaboratively discuss ways to achieve the outcomes for all parties.

If you have any queries on our submission, please do not hesitate to contact me or Justin Betlehem.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Hallam', written in a cursive style.

Tom Hallam
General Manager Regulation (Transmission and Gas)
AusNet

Response: Land Access Code of Practice Draft Determination

Including responses to questions and comments on legal drafting

Tuesday, 1 August 2023



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Our focus for better outcomes



Our renewable future depends on getting the Land Access Code of Practice right and delivering key projects

Process improvements are essential to avoid delaying our renewable targets and future



Developing and building new transmission lines would benefit from LACoP regulation, while maintaining and operating existing lines would not

Mutual behavioural expectations are essential to maintain community trust and progress with confidence



1. Our renewable future depends on getting land access right



1.1. Why it's important to us?

AusNet is supportive of a final Land Access Code of Practice (**LACoP**) that promotes fair, safe and respectful land access engagement practices to connect renewable energy from wind and solar farms needed for the success of the Victorian renewable energy transition and to improve overall system security and reliability. As a transmission licensee (AusNet Transmission Group Pty Ltd), our role is to develop, construct, safely operate and maintain the transmission lines that are pivotal to providing Victorians with electricity from wind farms and large-scale solar generators. We want all impacted landholders and tenants to feel valued as part of this clean energy transition and at every stage be able to discuss with us ways to best manage the change. These lands, we acknowledge, are the source of generational livelihoods, food production, and significance to their traditional owners.

Both the Federal and State Governments have legislated decarbonisation targets to allow Australia to meet its Paris Treaty commitments to limit long term climate change. Specifically in Victoria, there are legislated targets of 50% renewable generation by 2030 and net zero emissions for the Victorian economy as a whole by 2050. The Government also announced further new renewable energy targets of 65% by 2030 and 95% by 2035, as well as new economy-wide emission reduction targets of 75% to 80% by 2035 and net zero by 2045. These are supported by announced targets for electrification, storage capacity and offshore wind generation.

To achieve these targets, significant extra transmission capacity and 9 new transmission line projects must be built to allow connection of:

- An additional 4GW of additional renewable generation required between 2025 and 2030 to meet 2030 targets, including:
 - Western Renewables Link (**WRL**) enabling 1.8 GW of new renewable energy connections; and
 - VNI West enabling an additional 3 GW of renewable energy connections in north-western Victoria.
- At least 18GW (the equivalent of more than 10 Hazelwood Power Stations) of additional renewable generation needed between 2031 and 2040 to meet net zero.

Figure 1 on the next page shows how these additional renewable projects align with the decline of coal in Victoria.

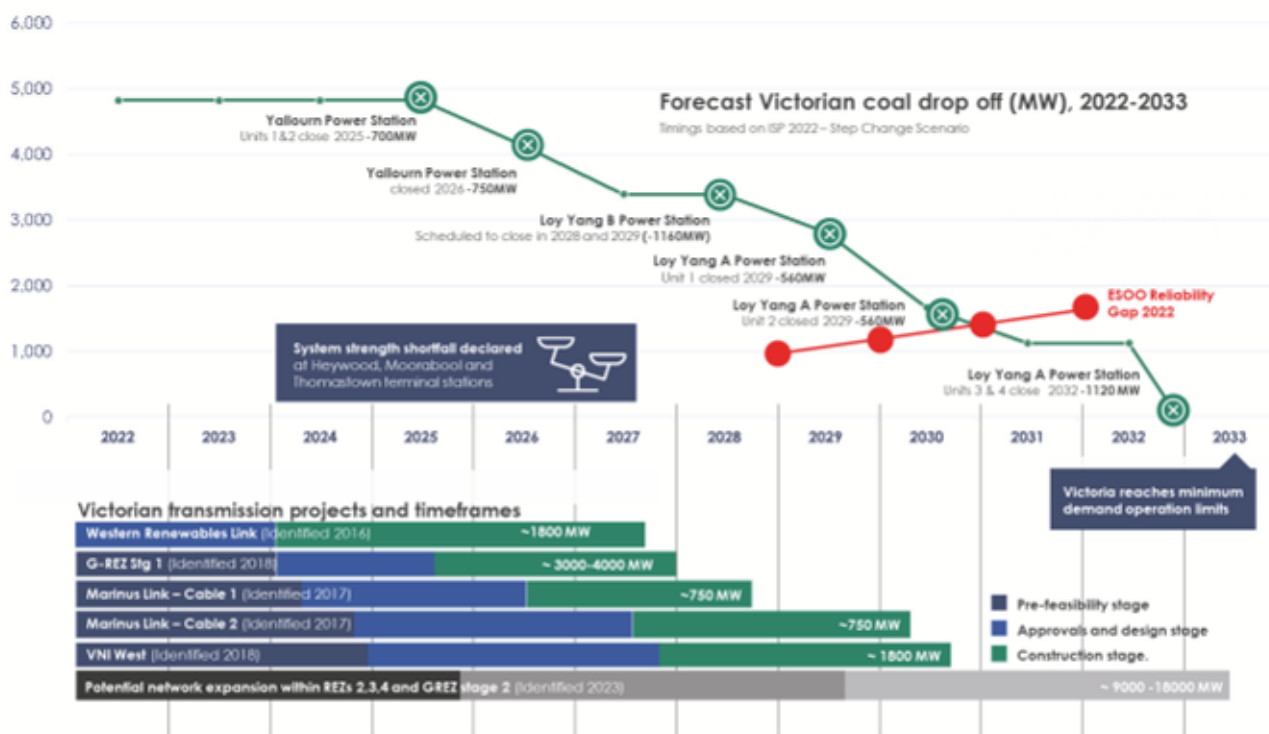


Figure 1: Showing the alignment of the renewable transition with new transmission line projects

Most new wind and solar generation sites are located in parts of Victoria not well serviced by transmission capacity. Therefore, most of these new transmission lines will have to traverse areas of the State that do not currently have transmission infrastructure to provide access to cheaper renewable electricity.

Transmission infrastructure has long lead times to build. Currently, the current planning and approvals system, transmission projects typically require a minimum of 8 years to be commissioned; including:

- A minimum of 3 years pre-feasibility stage;
- Approximately 3 years of approvals and design stage; and
- At least 2 years construction stage.

Figure 2 on the next page shows just much Victoria needs these new transmission lines to manage demand-capacity deficit from the rapid renewable transformation.

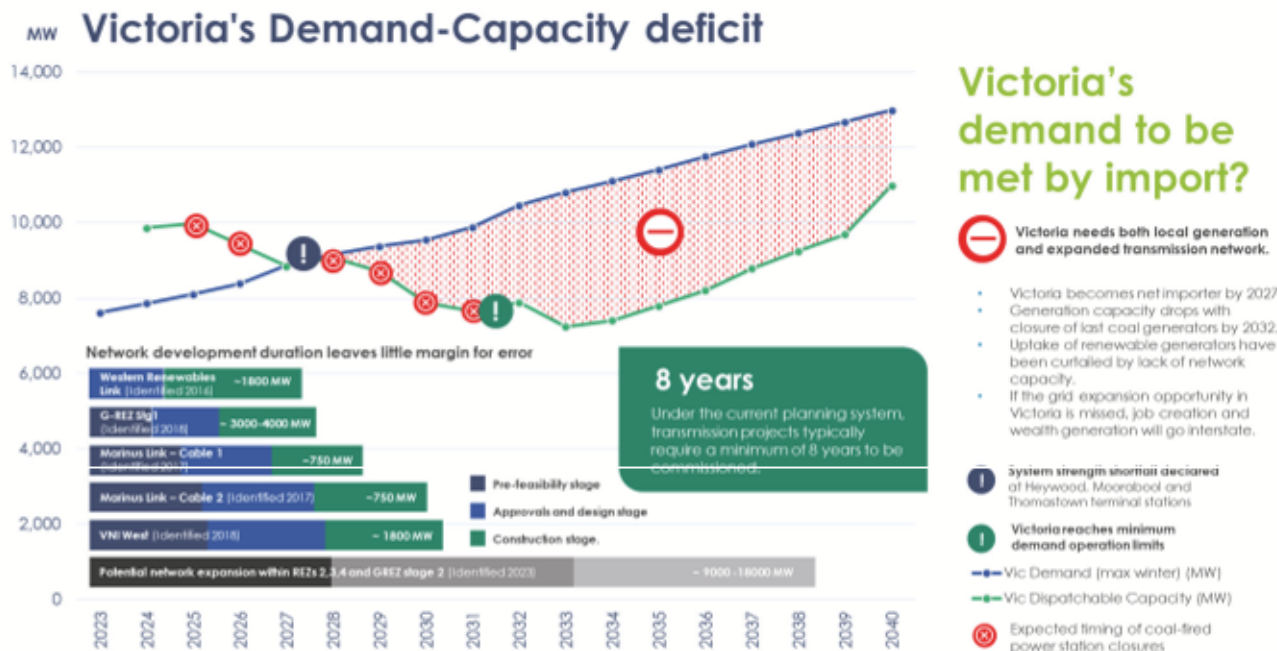


Figure 2: New transmission lines needed to meet Victoria's electricity demand

Therefore, it is critical that project delivery is supported by a land access regime that provides strong protections to landholders but also facilitates access in reasonable timeframes. A key tenet of this support is ensuring that processes are efficient.

Even short land access related delays can have an accumulative impact and compound with shortfalls of high demand project resources to delay these timeframes. Delays to projects will impede the benefits from the timely delivery of these transmission projects, including by accessing cheaper renewable electricity, helping mitigate the effects of climate change and improving overall system security and reliability.



1.2. Western Renewables Link

AusNet is privileged to be developing and building the Western Renewables Link (**WRL**), the first of many projects that will have to be built in Victoria to deliver the decarbonisation targets.

Over the past three years, our people have completed an extensive program of landholder and community engagement with great professionalism. Our team is dedicated to delivering this necessary infrastructure to link vast resources of wind and solar generation with the urban centres of Victoria – powering the livelihoods and wellbeing of millions of people. The whole WRL team is committed to operating in a respectful and collaborative manner with landholders and local communities. We work closely with landholders, communities, the Australian Energy Market Operator (**AEMO**), the Australian Energy Infrastructure Commissioner (**AEIC**), the Energy and Water Ombudsman Victoria (**EWOV**) and the Commission as important partners in this significant undertaking.

WRL is the first major transmission infrastructure project to be built in the State in decades. As such, there is little or no recent industry experience of the complexities of negotiating access to private land for the purposes of such significant infrastructure builds. AusNet's experience with land access for WRL has provided important learnings for both the WRL project and future transmission infrastructure projects. We are currently preparing an Environment Effects Statement (**EES**) to assess the potential environmental effects of the project. This is required by the Minister for Planning (Victoria) as part of the approval process, and must be completed before any statutory decisions about whether to grant the required project approvals are made.

Obtaining timely access to parcels of land now is a crucial input into the planning approvals phase of project, particularly Cultural Heritage Management Plans. Our extensive efforts to negotiate access to date means we have unique, current experience and practical insights on the challenges involved in securing land access, and the workability of current land access processes.

1.3. Our commitment to protecting the land

AusNet and its contractors take biosecurity very seriously. We are committed to implementing industry leading biosecurity practices to protect Victoria's hardworking agricultural producers. The land corridor for the WRL traverses parts of Australia's blue ribbon farming areas. Our land liaison officers are extensively trained on biosecurity using the best national resources.

For our WRL project, all vehicles entering a landholder's property must wash all tyres and mudguards with water to remove all adherent mud, seeds and faeces and all AusNet's authorised persons before entering the property must undertake a wash down of their footwear to remove all traces of mud, seeds and faeces.

Where the property utilises a biosecurity register, AusNet and our authorised persons will sign the register prior to access, and any additional agreed protocols established for the property will be complied with (if applicable).

If a landholder's property has any existing plant or animal pathogens or soil contamination, for example, a landholder may flag they have saffron thistle (a type of weed) on their land, we will then establish further protocols to mitigate the risk of spreading the pathogen, such as a vehicle and shoe wash down upon exit of the property. Additionally, if a landholder has organic status, we will consult with the landholder to consider additional controls.

Our land liaison officers are extensively trained on biosecurity using the best national resources.



2. Process improvements

At the heart of a good process is a focus on people. AusNet values and respects the wellbeing and interests of landholders, local communities and the traditional owners all connected to these lands. Our land liaison officers are extensively trained in best-practice landholder engagement, biosecurity and de-escalation. We have invested significant personnel and financial resources into this training and implemented processes to facilitate constructive, effective relationships.

It is vitally important that every LACoP obligation is achievable, efficient and protects the interests of all people involved in process. Our people need a process with some degree of flexibility which allows us to provide a better service with more time and focus spent in meaningful discussions with landholders and meeting their needs. If any process obligations are unachievable at high volumes, transmission licencees will invariably allocate disproportionate resources and focus to literal compliance that may be better allocated to spending more time talking to landholders. It is important that the LACoP processes are designed to deliver the best outcomes for all people involved.

2.1. The end-to-end proposed process is challenging

The end-to-end processes prescribed by the draft LACoP are not suitable for timely and efficient project outcomes, as well as the safety of AusNet staff. We suggest the timing requirements and access conditions should allow for efficient land access with some flexibility to modify or adapt closer to the scheduled dates. More importantly, the safety of our people cannot be compromised by threats of harm and intimidation.

The draft LACoP is mostly based on existing processes that apply under the interim Electricity Transmission Company Land Access Statement of Expectations (SOE). Most aspects of the current process are working well, subject to difficulties in accessing land where the landholder will not engage with us, and escalated disputes with EWOV taking more than 200 days to resolve. However, we have identified the following key issues with the proposed process and recommend the following changes:

- Challenges of identifying and contacting affected parties as described in subsection 2.2 – we suggest reasonable exemptions for transmission licencees where we can demonstrate reasonable attempts have been made.
- Extensive information requirements lack flexibility and puts our people at risk as described in subsection 2.3 – we suggest reductions in the information requirements and strongly recommend changes to protect our people.
- Proposed notice and reschedule requirements that would cause major delays are described in subsection 2.4 – we recommend 3 changes to amend:
 - Various clauses to avoid doubling the overall land access notification time;
 - Clause 7.3.3 to require the transmission licensee “to negotiate in good faith” with the affected party; and
 - Clause 7.1.3 to only require the licensee to attempt to call or knock on the door and to SMS.
- Need for clarity on best practice dispute resolution processes in subsection 2.5 – we suggest the most effective resolution process where the dispute can be addressed with the landholders directly.

The issues described in subsections 2.2 to 2.4 are illustrated in figure 2-1 below.



Figure 2-1: Land access flow chart, showing key process issues.

2.2. Identifying affected and interested parties

We appreciate the intention behind, and the care and diligence that went into, the legal drafting of the draft LACoP definition of “other parties interested in land”. Nevertheless, we are left with the challenge of identifying all registered parties and non-registered affected parties, such as tenants. This becomes challenging if:

- The information registered is out of date or not suitable for ascertaining contact detail;
- We are notified by someone stating a lawful interest but does not provide adequate evidence, potentially require us to seek legal advice to determine if there is a lawful interest; and
- Tenant(s) leasing the property are not listed in public information sources.

The draft LACoP proposes multiple civil penalty obligations on failing to identify an affected or interested party. A Licensee’s regulatory burden rests upon identifying all these parties, which may not be practical or even possible depending on the circumstances. In particular, as leases are not required to be registered on title in Victoria, we have the challenge of identifying tenants and what do we do if we are not told about them. If a landowner will not engage or respond to us, and we do not find out about the occupier, we need to have a clear exemption stating that we can proceed on the basis that there is no tenant occupier, if the occupier (as defined) is not confirmed by the landholder in a timely manner when they receive the first notice requesting the landholder responds within a certain time period.

The practical difficulties of identifying “parties with an interest in the land” that claim a lawful interest and tenants make complying with obligations to provide timely notices and engagement without impacting project timelines impossible. These obligations give more parties the opportunity to delay land access, when their interest in the land may not be relevant to land access, potentially, increasing the costs and causing delays to land access. Therefore, we recommend amendments to delete subsection (b) of the other party interested in land definition and amendments that allow for reasonable exemptions for licencees where we can demonstrate reasonable attempts to identify, and contact, registered and affected parties.

Additionally, it is problematic to have situations where the title search identifies electronic communication details (i.e., an email address) but the draft LACoP would not permit us to use it unless we get the parties consent to use it. This requirement is over and above the Electronic Transaction Act which does not require such consent.

2.3. Extensive information requirements lack flexibility and puts our people at risk

Most of the information requirement in the draft LACoP represents the information typically provided to landholders. However, provisions that require dates, times, duration, and number of people more than 6 weeks ahead of the land access would result in suboptimal outcomes for landholders and licencees, alike.

- Licencees may need to overestimate dates, times, duration and number of people to establish contingency; and
- landholders may benefit by more accurate and specific information with fewer planned access days.

More concerning for AusNet is the requirement in clause 5.3.1 to provide the full name of our land liaison officers to landholders and other affected parties – endangering their physical and psychological safety. While we appreciate clause 5.4.5. provides this level of protection to staff other than land liaison officers, we emphasise that all staff need this level of protection.

Unfortunately, the threats and intimidation shown to our staff by a small minority of affected and interested parties has forced us to protect our people and their families by not allowing their full names to be used. If this protection were unavailable due to Code of Practice obligations, we would lose some of our most passionate and empathetic land liaison officers due to their safety concerns or having to relocate them further away from the development area. For this reason, we strongly recommend amendments to clause 5.3.1 to remove the requirement for the full name of our people. Our people are our most valuable assets building quality relationships with landholders and need to be protected.

2.4. Notice and reschedule requirements would delay projects

The most significant change to our process by the draft LACoP is to the notice timing, confirmation requirement and rescheduling rights. Taken together, the changes represent a significant step change in the regulatory burden on licensees to deliver critical energy transmission projects. While we acknowledge that rescheduling land access is sometimes needed for agricultural reasons, it is important to consider that the use of s93 land access comes after extensive engagement seeking a voluntary agreement has already occurred. The early engagement discussions and voluntary agreement engagement provide an opportunity to schedule land access to more suitable dates.

Each of these changes to project delivery timeframes and costs would cause material impacts. Specifically, the draft LACoP introduces:

- The doubling of the end-to-end land access process that currently takes a minimum of 3 weeks – impacting current work programs of surveys and reducing flexibility in adapting to ecological changes, resourcing challenges, and rapid changes in weather.
- A right for landholders to request a delay in the land access up to 3 separate occasions – each change would add weeks or months, incurring costs of up to \$15,000 per day, and effectively move every contested land access to the critical path of the project where we can readily demonstrate a material delay.
- The requirement to talk to the landholders more than 48 hours before the land access – when landholders could not engage with our phone calls, door knock and SMS preventing the access from occurring.

These changes would stifle progress on the essential land accesses that are needed to establish necessary approvals and confirm the specific route for the new transmission lines and introduce material costs increases for new transmission project that will be reflected higher bills to customers.

The Commission has not identified any problems these changes would address.

Firstly, consider the doubling of the end-to-end land access process. The below table compares the detail of this change to our current process.

S93 Notice of access	Letter 3 (Specific survey request)	Letter 4 (Notice of Access)	Contact in advance of survey	Date of access letter	Minimum duration
Our existing process under the SOE	Minimum 7 days to contact again	Minimum 7 days from second contact if required	24 hours	Minimum 7 days from L4 to access	Minimum 21 days (3 weeks) from contact regarding specific survey request to access
Draft LACoP	None	Minimum 20 business days	48 hours	Minimum 10 business days	Minimum 30 business days (6 weeks) from contact regarding specific survey request to access

The highest impact change in this table from the draft LACoP is the lead time increase to the access final letter from 1 week to 2 weeks. Consequently, this reduces flexibility in adapting to resourcing challenges. Registered Aboriginal Parties (RAPs) resources needed for cultural heritage surveys are in very high demand, like all human resources, are susceptible to changes in availability. Changing to 2 weeks lead time would reduce our flexibility to reschedule resources that in very high demand and already have long lead times.

Moving from 24-hour to 48-hour final confirmation would increase likelihood of rapidly changing weather events impacting scheduled land access. All the changes to the information and notification periods make ecological driven changes more challenging.

We consider the current notification process (refer Appendix C) of organising land access is optimal for the development and construction of new transmission lines. There does not appear to be a compelling reason to deviate from the current notification process which takes a minimum of 3 weeks. Therefore, we recommend amending clause 7.1.2 to grant licensees 5 business days as the minimum timeframe for providing the notice of access. The 10 business days is unnecessarily long, and the increase from 5 to 10 business days increases our cost and time impacts from those situations where rescheduling is required (e.g., at the 24-hour or 48-hour point). The booked contract resources of archaeologists, ecologists, surveyors, RAPs, security contractors cannot be reallocated to another land access.

Secondly, the right for landholders to request a delay in the land access on 3 separate occasions, as a standalone issue, would have a material impact to project delivery timeframes and delivery costs. Currently, where landholders engage with our staff, we will negotiate with them as to land access dates and consider their circumstances. However, an obligation to agree to a request on very short notice with the onus on us to justify why not, put us at the mercy of landholders contesting land access. In effect, to demonstrate the delay is material, all contested land access would have to occur on the project critical path. Operating a project with this requirement would add months to the delivery timeframe at an additional cost of millions of dollars per month. We recommend amending clause 7.3.3 to instead require the licensee "to negotiate in good faith" with the affected party giving regard the factor included in clause 7.3.4(a)-(c) and how much time there is prior to the scheduled land access.

Thirdly, the draft LACoP requirement for licencees to talk to the landholders more than 48 hours prior the land access. The big problem with this requirement is it allows landholders to contest and refuse land access by simply not answering the phone calls, not answering the door, or responding to SMS. If this occurs the licensee would have no option but to reschedule weeks or months later typically occurring material costs. We recommend an amendment to clause 7.1.3 that only places obligation on the licensee to attempt to call or knock on the door and to SMS. If attempts to talk to, or get a SMS response from, the affected party are unfruitful the licensee should not be prevented from undertaking the land access.

It is important to consider the impact on RAPs resource availability when adding any requirement to reschedule a land access at short notice (e.g., 48 hours), whether due to an affected party's request or a requirement to talk to an affected party. RAPs resources are in very high demand with current lead times between 4 to 6 months. Whether we can reschedule is dependent on reallocating a booking arising from another cancellation – which is unlikely.

Additionally, short notice cancellations have a human cost on RAPs consultants that travel extensively across much of Victoria. Out of respect, we have agreed with RAPs that we will provide them with as much notice as practicable except where extreme weather or safety concerns require a reschedule. To have obligations that allows affected parties to cancel the land access, for cultural heritage surveys, could create very unhelpful tensions between landholders and RAPs.

Therefore, it is vital to the timely, efficient and respectful delivery of much needed new transmission lines that the above amendments to clauses 7.1.3 and 7.3.3 are made.

2.5. Dispute management obligations

The draft determination makes it clear that the Commission's preference is for the Energy and Water Ombudsman Victoria (EWOV) to manage s93 land access dispute resolution. AusNet notes our concerns previously raised in our submission earlier in response to the Making a Land Access Code of Practice consultation paper on EWOV's dispute resolution performance, and we remain concerned by long dispute resolution times.

However, we are genuinely committed to working with the staff and Board Members at EWOV to achieve better outcomes for landholders and for everyone looking to energy industry to deliver renewable energy transition in a timely manner. Together, we can do better.

It remains our expectation that complaints should be first raised with the licensee before involving independent dispute resolution organisation. Only after we cannot resolve the dispute to the satisfaction of the complainant should the dispute be raised to the independent dispute resolution organisation. Our land liaison officers are passionate about caring for, and communicating with, landowners and other affected parties. They are trained in best practice engagement and de-escalation. Additionally, we have robust processes and governance arrangements that ensure transparent and fair outcomes. We typically resolve disputes in less than 10 business day. If we cannot resolve a dispute, we welcome the involvement of the independent dispute resolution organisation.

At the industry forum held on 18 July, there was discussion on the Queensland Land Access Ombudsman scheme being the first point of contact for land access disputes. This arrangement is very different to EWOV's land access dispute resolution scheme. Firstly, the Queensland Land Access Ombudsman is specialised in land access and fully funded by the State government. While EWOV mostly undertakes non-land access disputes and is industry funded for full cost recovery through fees. Secondly, we understand that the Queensland Land Access Ombudsman often refers many disputes directly to the land access proponents for faster resolution, while typically EWOV does not refer a dispute that has escalated to level 2. In making this comparison, we are not asking for the Queensland scheme, only distinguishing the significant difference between the Queensland and Victorian schemes which contribute to the Queensland arrangements relative success. We are concerned that cherry picking a specific aspect out of the Queensland Land Access Ombudsman scheme, like first point of contact, to apply in Victoria is not justified.

AusNet considers that land access dispute management obligations should refer the licensee to resolve the dispute in the first instance. We suggest changes to clause 11.1.2 of the LACoP to make this a requirement for the appointment of a land access dispute resolution scheme.

3. LACoP is not suited to O&M

3.1. Operation and maintenance of transmission lines is very different to new projects

We support applying LACoP regulation, embedding principles of 'transparent and extensive engagement', for development and new construction projects. However, we do not support extending it to land access for any operation and maintenance (O&M) activity once the construction is complete. Operating transmission lines involves completely different activities to developing and building transmission lines. The differences in these activities are immense:

- Development and construction land access requires below surface activities, while O&M land access generally does not.
- Development land access often involves land access over land already in use, while O&M land access only usually involves use of access tracks within an easement.
- Construction land access requires heavy machinery and vehicles, while O&M land access usually only requires lighter vehicles. O&M activities may also involve flying drones or helicopters flying at safe altitudes and complying with all Civil Aviation Safety Authority (CASA) regulatory requirements (e.g., helicopters flying at a minimum altitude of 500 feet).
- Development and construction land access can occur frequently over two to four years, while O&M land access occurs on all transmission lines once a year over a period longer than 75 years.

These significant differences at a minimum would necessitate very different regulatory obligations, however based on our many years of experience we consider there is no problem that requires any such regulation for O&M land access. We undertake thousands of land accesses for O&M activities for existing transmission lines and only a few complaints by landholders per year for O&M land access.

The distinguishing features of these different types of activities makes specific requirements, such 6 weeks lead times and access period that must not exceed 6 months unsuitable for O&M land access activities.

3.2. Land access metrics

AusNet Transmission Group Pty Ltd conducts extensive land access for O&M activities along existing transmission lines. More than 10,000 land access visits are made each year to carry tower inspections, repairs, maintenance, clear vegetation and in the event of emergency requirements. In summary, for our existing transmission lines we:

- Climb on average over 4,000 towers per year (or 13,161 towers every 3 years);
- Access every easement every year; and
- Undertake vegetation clearance activities along our transmission lines every 2-4 years for land with trees.

All while limiting the need to use formal s93 statutory power land access rights on these existing transmission lines to only once per financial year and receiving only an average of 4 complaints per year. Most of these complaints were in relation to gate issues.

In contrast, our WRL new transmission line development activities have involved:

- issuing of more than 6,000 of land access notices (including emails, phone calls & SMS) to hundreds of landholders;
- more than 200 face-to-face meetings with landholders; and
- more than 30 land accesses using S93 notice statutory powers.

Currently, we have had only 9 formal complaints for WRL land access for this intensive, extensively coordinated land access activity with processes that comply with the Commission's SOE requirements.

Given the negligible complaint rate for O&M activities along existing transmission lines in comparison to the intensive, coordinated land access activity for the WRL development project, we consider that the application of land access regulation in the form of the LACoP is not required for existing transmission lines.

3.3. Safety impacts if O&M activity is subject to LACoP regulation

AusNet's transmission lines require extensive O&M activity to avoid large scale supply interruptions, situations resulting in electrical hazards and fire start conditions. Some of this activity can occur by flying over the land, while some of this activity involves tower climbing or vegetation clearance for bushfire risk mitigation. Our O&M activity is already constrained by AEMO's declared system security conditions for months in a year. The imposition of proposed LACoP requirements in clause 3.1.1 would make this already challenging task more difficult and costly.

All transmission line O&M activity is imperative for keeping the community safe. Vegetation clearance for bushfire risk mitigation prevents transmission line from contacting vegetation and reduces the risk of smoke and heat from a fire causing large scale electricity supply interruptions.

One issue of particular concern is the obligation in clause 5.1.2 to consult with RAPs in circumstance where a cultural heritage management plan (CHMP) does not need to be prepared. By virtue that every development and construction project is required to have a CHMP, clause 5.1.2 would only apply to O&M activities. Restraining essential O&M activities for cultural heritage is unnecessary because licensee new projects, that are subject to CHMP requirements, have already provided all identified information to Victoria's ACHRIS (Aboriginal Cultural Heritage Register & Information System). The land subject to clause 5.1.2 requirements for RAPs consultation would be already assessed. Licensees should not be subject to delays for undertaking essential O&M activities needed to keep our communities safe such as tower climbs, and vegetation clearance for bushfire risk mitigation. These activities do not disturb the ground or for already identified sensitive sites are identified in ACHRIS and appropriately protected.

We strongly recommend clause 5.1.2 be amended accordingly and clause 3.1.1 be amended to not apply the land access code of practice obligations to O&M activities on transmission lines after the construction is complete and the lines are energised.

Additionally, the proposed definition of significant upgrade should be excluded from the LACoP to prevent it from impacting emergency works or significant repairs needed to quickly restore the transmission network (e.g., building temporary towers after a severe storm upheaves towers). Therefore, we recommend that all references to "significant upgrade" be removed from clauses in the LACoP, or alternatively amended to limit its application to easement expansions and expressly excluding emergency works or significant repairs.

4. Mutual behavioural expectations

4.1. Non-binding behavioural expectations removed

Mutuality of behavioural expectations on parties should be recognised as a key principle in the LACoP to underpin engagements between landholders, interested parties and transmission licencees. In developing and building the Western Renewables Link, AusNet engages early and extensively with landholders – the use of s93 land access comes after extensive engagement seeking a voluntary agreement has already occurred. This early engagement is vital in establishing voluntary agreements, or even if an agreement is not reached often discussing land access date preferences is helpful for everyone.

The interim Electricity Transmission Company Land Access SOE incorporates very positive expectations of landholders and parties interested in land, including:

- 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.
- Ensure that those present on their land do not impede the electricity transmission company's authorised activities and do not, in any circumstances, jeopardise the physical or personal safety of any authorised representative of the electricity transmission company.

These are helpful for everyone, even if they are not in any way enforceable. It would be more helpful if licensee obligations were linked to this level of cooperation. However, the proposed Code of Practice does not include any such statements or recognition that disputes related to licensee conformance to obligations is linked to behavioural expectations on all parties.

4.2. More can be done to improve engagement

We agree that a Code of Practice cannot impose obligations on persons who are not regulated entities, but it is open to the Commission to reflect that the conduct of these individuals can have an impact on the ability of licensee to comply with its obligations under the LACoP. Where parties do not meet these expectations, this should be reflected in adjudication in key obligations to provide a reasonable incentive to engage with us in timely matter by their calling, writing or meeting with our professional and caring land liaison staff.

One adjustment to consider is an exemption from requirements to reschedule a land access where the affected party has ignored all attempts to answer phone calls or discuss in person or otherwise engage with the transmission licensee after all attempts have been made in accordance with the Code of Practice. This would act as a reasonable incentive on affected parties to better understand the licensee's proposed land access and talk about their concerns with licencees. Often during these early engagement discussions, we can establish significant win-win outcomes with the use of lower impact access tracks or timing changes to avoid/lessen the impact to agriculture production.

Another reasonable incentive would be to explicitly void the application of civil penalty provisions in Schedule 1 where the affected party related to specific land access physically assaults or threatens the safety of the licensee's staff and contractors. Evidence of such occurrences could be provided to the Commission's staff as appropriate. While such circumstances are rare, the acknowledgement in Schedule 1 would serve as an incentive for safe and respectful behaviour. This would help licensees de-escalate the most challenging of potential confrontations.

Appendix A: Response to questions raised in the consultation paper

Question asked in the Consultation Paper response	AusNet's response
<p>The need for an enforceable Land Access Code of Practice</p> <p>1. Do you consider that the current proposed obligations in the code of practice provide enough clarity on what is expected from transmission companies when accessing land? Do the proposed obligations provide sufficient flexibility to develop new transmission projects and undertake significant upgrades?</p>	<p>AusNet has proposed some amendments to specific clauses of the draft Code to improve clarity in Appendix B.</p> <p>More broadly, we consider the proposed drafting offers very little flexibility. There are prescriptive requirements on information provided prior to land access including factors that invariably change closer to the land access day (or days).</p> <p>Additionally, the constraints imposed on licensees are vastly more onerous than requirements for developers, VicGrid and AEMO's newly created Vic Transmission Company. The application of these constraints to transmission licensees would likely influence affected party stakeholder expectations.</p>
<p>What activities should the Code of Practice apply to?</p> <p>2. Do you identify any issues with the proposed scope of the code of practice – that it would apply to all new transmission projects and significant upgrades on existing transmission projects?</p>	<p>There is no indication that the Commission intends for the LACoP to apply to VicGrid or AEMO's newly created Victorian Transmission Company, both of whom will play pivotal roles in the delivery of new and significant upgrades to existing transmission projects. Given that the roles these entities will play in negotiating access etc, it is appropriate that the LACoP sets a common standard across all projects.</p> <p>As we have outlined in our above submission, the scope of the LACoP should not extend to significant upgrades on existing transmission infrastructure nor to O&M activities.</p>
<p>3. Do you agree to the code of practice applying to all stages of a new transmission project in which section 93 access may be required?</p>	<p>We do not agree that applying LACoP to all stages of a new transmission project in which section 93 access may be required. Section 93 powers are a last resort option, and we endeavour to enter into voluntary access arrangements first.</p> <p>We recommend that the LACoP obligations should not apply once transmission lines are constructed and energised. As then it becomes operations and maintenance phase so quite different activities.</p>
<p>Obligations prior to accessing land</p> <p>4. Do you have any comments on the proposed general communication and engagement obligations on transmission companies before accessing land?</p>	<p>Our above submission describes our concerns and suggestions to improve the obligations prior to accessing land. In summary, these are:</p> <ul style="list-style-type: none"> - Unnecessarily long 30 business day end-to-end land access notice periods will add delays to projects; - Prescriptive information notice requirements will add costs and reduce flexibility; - Rights to reschedule access up to three times.
<p>5. Do you have any comments on the proposed information and notices that should be provided by transmission companies to affected landowners and occupiers before accessing land under section 93 of the Act or entering into a voluntary access agreement? Should any</p>	<p>Firstly, we note that 6.1.1(d) and (e) that transmission licensees are required to clearly explain rights and obligations. The proposed requirements may be considered legal advice, which is inappropriate. We recommend amending to avoid this conflict.</p> <p>Secondly, we are concerned by the requirements to provide overly specific information in clause 6.2.1 including dates, times, duration, and number of people more than 6 weeks ahead of the land</p>

information be added, removed or amended?

access. In section 2.3 above, we discuss the impact for landholders and licencees, alike.

- Licencees may need to overestimate dates, times, duration and number of people to establish contingency; and
- landholders may benefit by more accurate and specific information with fewer planned access days.

We suggest amending to remove these information provision obligations.

6. Do you consider that the proposed timing of 10 business days is sufficient period for a Notice of Access?

Yes, and we consider the current period of 5 business days is sufficient and the draft LACoP proposal of 10 business days will result in project delays as discussed in 2.4 above.

7. Do you have any comments on the proposed maximum access period?

The concept is a maximum access period up to 6 months is new and not part of our current process for the current development phase of our WRL project, however the 6 months maximum timeframe would be overly restrictive for construction phases of new transmission line projects. We suggest amending the maximum period to allow for longer access period during construction to commissioning phases.

Additionally, the 6 months maximum timeframe is non-conducive to the application of the LACoP to ongoing operations and maintenance activities after construction and energisation concludes.

8. Do you have any comments on the proposed risk mitigation obligations in the draft code of practice?

See specific comments in Appendix B commenting on the specific proposed clauses.

9. Do you have any comments on the proposed specific risk mitigation obligations in the draft code of practice related to biosecurity protocols, fire risk management and health management?

See specific comments in Appendix B commenting on the specific proposed clauses. However, we note that many of AusNet's policies and procedures are confidential. We suggest amending clause 9.4.1(c) to allow the provision of public facing versions of summarising our policies and procedures.

10. Do you have any comments on the proposed complaints handling and dispute resolution obligations in the draft code of practice?

Please refer comments made in section 2.5 above on the need for complaints handling and dispute resolution obligations to establish that land access dispute management obligations should refer the licensee to resolve the dispute in the first instance. We suggest changes to clause 11.1.2 of the LACoP to make this a requirement for the appointment of a land access dispute resolution scheme.

11. Do you have any comments on the Energy and Water Ombudsman Victoria (EWOV) being the proposed dispute resolution scheme? Are there other dispute resolution bodies we should consider? What would be the costs and benefits of those options?

AusNet notes our concerns previously raised in our submission earlier in response to the Making a Land Access Code of Practice consultation paper on EWOV's dispute resolution performance, and we remain concerned by long dispute resolution times. However, we are genuinely committed to working with the staff and board members at EWOV to achieve better outcomes for landholders and for everyone looking to energy industry to deliver renewable energy transition in a timely manner.

We will continue to monitor and track EWOV's dispute resolution times, project delays caused and dispute resolution outcomes and provide to the Commission on a confidential basis.

12. For what period of time should transmission companies be required to retain records related to land access?

Seven years. This would be consistent with clause 1.9 of the National Electricity Rules.

13. What scope of records should transmission companies be required to retain?

No comment at this stage

14. Are the proposed reporting requirements appropriate to monitor compliance with this draft code of practice? If no, what reporting should be required? Do you have any comments on whether the monthly reports should be used for additional purposes?

We recommend reviewing the requirement for monthly report and adopt quarterly reporting to minimise the ongoing administration effort by licensees.

15. Is there any additional information we should consider on the expected costs and benefits of the draft code of practice?

It is essential that the Commission consider the true cost of the draft LACoP to consumers and consider whether the obligations it imposes on licensees are truly in the long-term interests of consumers. Implementation and ongoing costs will ultimately be passed on to AEMO as the project proponent and finally to Victorian consumers.

In a separate confidential supplementary submission, we will outline the specific costs expected from these changes.

16. Are there any other issues with implementing the code of practice we should consider?

Obligations on landowners (p15). We agree that a code of practice cannot impose obligations on persons who are not regulated entities, but it is open to the Commission to reflect the impact that the conduct of these individuals can have on the ability of licensee to comply with its obligations under the Code.

Additionally, regarding enforcement through Civil Penalties (p21). We note that every civil penalty provision is also subject to the penalty notice regime under Pat 7 Div 2 of the ESC Act.

Appendix B: Clause based suggestions

Clause	Clause	AusNet's response
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.	The stated purpose does not accurately reflect the full scope of the draft Code, which also purports to direct licensees in relation to aspects concerning voluntary land access agreements. See clause 1.1.2(d).
1.1.2(f)	(f) promote the long term interests of Victorian electricity consumers	In seeking to promote the long term interests of Victorian electricity consumers, we urge the Commission to consider the impact of the implementation and compliance costs the Code will require, and which will ultimately be passed on to Victorian electricity consumers. We recommend that the LACoP be reviewed within two years to assess the effectiveness of the LACoP in its practical application and impact on renewable energy project delivery timeframes.
2.1.1	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	<p>The definition of access agreement must be limited to exclude access obtaining via a statutory licence (e.g. in national parks and rail corridors), consents from statutory bodies (e.g. VicRoads). Prior to the privatisation of electricity in Victoria, we had land access agreements with national parks, rail operators, and VicRoads but gave them up when s93 statutory powers were established.</p> <p>The definition of 'private land' should be amended to remove all Crown land - currently it brings in some Crown land.</p>
2.1.1	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.	<p>Definition of electricity transmission assets:</p> <p>Should exclude 66kV sub-transmission lines to avoid including connections to wind farm development projects in scope.</p>
2.1.1	electricity transmission company/electricity transmission companies means a holder of a transmission licence	Definition of electricity transmission company : we encourage the ESC to consider the merits of extending the draft Code to apply to all parties involved in delivering new infrastructure projects and significant infrastructure upgrades in Victoria, including VicGrid, AEMO's Transmission Victoria Company, and private sector developers.
2.1.1	land access related information means any information related to access by an electricity transmission company to private land for new transmission projects or significant upgrades on existing transmission projects...	<p>Definition of other parties interested in land:</p> <p>See our comments in section 2.2 regarding tenants recommending that can proceed on the basis that there is no tenant occupier, if the occupier (as defined) is not confirmed by the landholder in a timely manner when they receive the first notice requesting the landholder responds within a certain time period.</p> <p>Additionally, as also discussed in section 2.2, we recommend amendments to delete subsection (b) of the other party interested in land definition and amendments that allow for reasonable exemptions for licensees where we can demonstrate reasonable</p>

attempts to identify, and contact, registered and affected parties.

2.1.1	<p>significant upgrade means works undertaken, or proposed to be undertaken, by an electricity transmission company on private land that</p> <p>(f) involve an augmentation or an extension to existing electricity transmission assets located on that land or on some of that land, other than where the electricity transmission company has existing access agreements with all affected parties or an easement (obtained through an agreement or acquired under section 86 of the Act) that permit land access for those works, and</p> <p>(g) are expected to commence the construction phase after the commencement date of this Code of Practice</p>	<p>Definition of significant upgrade: the definition must be amended to incorporate a threshold that makes it 'significant'. At present, it captures all transmission network upgrades that involve works on private land.</p> <p>Additionally, as recommended in section 3.3 references "significant upgrade" should be removed from clauses in the LACoP, or alternatively amended to limits its application to easement expansions and expressly excluding emergency works or significant repairs. The alternative to removing all references should apply the threshold of the augmentation requiring a line extension and the acquisition of new easement.</p> <p>The use of "augmentation or extension" is not consistent with the existing transmission or the regulatory framework generally. Deleting the words "or extension" would make it consistent.</p> <p>Note the references should be (a) & (b), not (f) & (g)</p>
2.2.1.(a)(iii)	<p>by sending it by post to the last known address of the place of residence of the person; or</p>	<p>Amend to include known postal address as an option that is relevant where the postal address is provided by the title search.</p> <p>by sending it by post to the last known address of the place of residence of the person <u>or known postal address</u>:</p>
2.2.1(a)(iv)	<p>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</p>	<p>We should not be required to obtain a person's prior consent to receiving electronic communications. We propose an approach in line with the Distribution Use of System Agreement where a notice or information required under clauses 7.1.2 of the draft Code is sent electronically, the licensee must also provide it via one of the methods specified in subparas 2.2.1(a)(i), (ii) or (iii).</p> <p>We consider that it is reasonable to use the email contact details provided to us by the landholder without further given consent.</p>
2.2.2	<p>Any notice required to be given under this Code of Practice is to be regarded as having been served on that person:</p> <p>(a) if delivered in person, on the day when the notice is delivered;</p> <p>(b) if sent by post, four business days after the date of posting;</p> <p>if it is an electronic communication, at the time determined in accordance with the Electronic Transactions (Victoria) Act 2000.</p>	<p>The final phrase should be numbered as paragraph (c).</p> <p>Additionally, we suggest adding the words "unless evidence is adduced to the contrary" to clause 2.2.2(b) to enable the use of Express Post with a delivery tracking system in a shorter delivery time.</p>
3.1.2(b)	<p>in relation to actions they take when entering into access agreements in circumstances where failure to enter into an access agreement would likely result in the electricity transmission company exercising its statutory rights of access to private land under section 93 of the Act;</p>	<p>We are concerned that this clause is too broad. There should be clear exemptions where public safety and network security take precedence such as under the Electricity Safety Act or Bushfire Mitigation Act.</p>

3.1.3	Divisions 7, 9 and 11 of this Code of Practice do not apply where land is accessed in accordance with an access agreement.	Any access agreement (this includes easements and any other types of agreements) should not be captured by the Code of Practice. The LACoP should only be applicable for Statutory Land Access.
3.1.5	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 compliance with this Code of Practice by itself and its contractors; and (b) must implement appropriate processes, training and contractual requirements in relation to compliance with this Code of Practice by its contractors.	Training requirements under draft LACoP clause 3.1.5 would cause a material step change in the outsourced O&M activities post construction. From an implementation perspective, we need months to develop: <ul style="list-style-type: none"> • Process breach reporting, • Training, and • Contractual requirements for our external contractors. If this obligation were immediately effective to would cause transmission projects to halt to undertake training and process changes.
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 in a manner that:	Definition of other parties interested in land : See above comment
4.1.1(g)	provides affected parties with sufficient information to enable them to make informed decisions whether to enter into an access agreement and for affected parties to understand their rights to compensation under section 93 of the Act.	AusNet acknowledges the important role the licensee plays in notifying affected parties of their rights to compensation, but it must be balanced against the need for affected parties to obtain their own independent legal advice. This is why AusNet offers affected parties considering entering into a WRL land access consent \$1,000 towards the cost of legal advisory services.
5.1.1	An electricity transmission company must consult with affected parties and other parties interested in land in accordance with this Part 2 prior to accessing land in accordance to an access agreement or by exercising its access powers under section 93 of the Act.	Delete the phrase "accessing land in accordance to an access agreement or by". The terms of the access agreement will stipulate the terms for access, including any consultation required prior to obtaining access.
5.1.2	Before accessing land in accordance to an access agreement or by exercising its access powers under section 93 of the Act, an electricity transmission company must:	Delete the phrase "accessing land in accordance to an access agreement or by". These steps will have been undertaken prior to entering into the access agreement.
5.1.2(d)	document the steps it has taken when contact is not achieved or acknowledged by an affected party or other party interested in land. Such measures may include making enquiries with local government in compliance with applicable privacy laws and communicating via registered mail.	Municipalities are not permitted to provide landholder or affected parties with information due to privacy laws. We suggest removing this reference as it is not applicable.
5.1.2(c)	consult with a registered Aboriginal party (RAP) if a Cultural heritage management plan does not need to be prepared according to the Aboriginal Heritage Act 2006, in order to assess potential impacts of a proposed activity on Aboriginal cultural heritage;	AusNet has concerns with the proposed clause 5.1.2(c). It would only apply for O&M activities as construction and development activities are subject to CHMPs. Therefore, restraining essential O&M activities. These activities do not disturb the ground. Identified sensitive sites are identified in ACHRIS and appropriately protected.

5.2.1(c)	(c) a summary in plain English of the electricity transmission company's obligations under this Code of Practice and the rights of affected parties under section 93 of the Act, including the option to enter into an access agreement;	Propose to redraft to read: (c) a summary in plain English of: (i) the <i>electricity transmission company's</i> obligations under this Code of Practice; (ii) the rights of <i>affected parties</i> under section 93 of the Act; (iii) the option for an <i>affected party</i> to enter into an access agreement.
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 full name, role and telephone number.	As outlined in section 2.3 above we strongly recommend removing the reference to the point of contact's full name to protect their physical and psychological safety.
5.4.1	An electricity transmission company must have regard to and consider feedback and any operational requirements from all affected parties and other parties interested in land when entering land, or proposing to enter land, under section 93 of the Act or an access agreement.	Delete the phrase "or an access agreement". The feedback from the <i>affected party</i> will be incorporated in the terms of the access agreement. Additionally, we recommend removing the reference to "parties with an interest in the land" as they may not be entitled to give feedback on access to the land.
5.4.4	On written request from an affected party, with the written consent of the landowner if requested by an occupier, an electricity transmission company must provide to that affected party requesting, the outcomes of its surveys and other relevant investigations in relation to land owned by that landowner or occupied by the occupier, where appropriate and reasonable to do so.	We recommend deleting this clause. As drafted, this would require us to disclose confidential survey results to be part of subsequent public consultations, staff safety security investigations and proprietary LIDAR results.
6.1.1(e)	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.	This obligation should be listed as a separate obligation, limited to situations where we are proposing to enter into an access agreement as it has no relevance to a licensee's rights to access private land under section 93.
6.2.1(a)	the processes for the electricity transmission company to make decisions relating to the proposed land access;	We suggest this is unclear on what information para (a) is targeting, please clarify.
6.2.1(b)	the opportunities for affected parties to participate in consultation on the new transmission project, or significant upgrades to the existing project, for which the land access will relate and on the proposed land access;	We suggest that 6.2.1 (b) is more appropriately included in 5.2.1 because of its generic nature.
6.2.1(k)	(k) the number of people expected to enter the land on behalf of the electricity transmission company and the organisations they represent;	As discussed in section 2.3 above this requirement is overly prescriptive and either limit flexibility or add unnecessary contingency resources to land accesses.
6.2.2	An electricity transmission company must establish a process to answer questions from all affected parties on the matters set out in clause 6.2.1 and have regard to any feedback from affected parties on those matters.	We suggest amending 6.2.2 to avoid it becoming a delaying tactic for landholders opposed to access: An electricity transmission company must establish a process to answer questions from all affected parties on the matters set out in clause 6.2.1 and have regard to any feedback from affected parties on those matters, <u>to the extent process of addressing feedback does not result in delays to the project.</u>

7.1.1	<p>After providing information in accordance with clause 6.2.1, 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</p>	<p>Redraft to co-locate all conditions:</p> <p>After providing information in accordance with clause 6.2.1, An electricity transmission company may enter land in accordance with section 93 of the Act, provided that it has: the electricity transmission company</p> <ul style="list-style-type: none"> provided information in accordance with clause 6.2.1 <p>gives all affected parties a notice of access; and prior to accessing land under section 93 of the Act.</p>
7.1.2(a)	<p>be given at least 20 business days after providing information 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</p>	<p>Redraft to avoid adversely impacting the current land access process.</p> <p>be given at least 20-10 business days after providing information on the proposed access in accordance with clause 6.2.1 and at least 10-5 business days prior to the start of the access period; and</p>
7.1.2(b)(i)	<p>(b) specify: (i) the access period;</p>	<p>The reference to 'access period' should be italicised.</p>
7.1.3	<p>An electricity transmission company must send a reminder before each proposed access during the access period, which must be given by at least 48 hours before each proposed access, directly in person, by telephone or by way of requesting a confirmation reply using any form of electronic communication agreed with the affected party</p>	<p>As discussed in section 2.4 above, we recommend amending this clause to refer to 24 hours and only places obligation on the transmission licensee "to attempt" to call or knock on the door and to SMS.</p>
7.2.1&2	<p>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)</p>	<p>As outlined in section 3.1 above access period that must not exceed 6 months unsuitable for O&M land access activities. It is also unsuitable for construction activities. Therefore, we suggest excluding these activities from its application.</p>
7.3.1(a)	<p>7.3.1. If an electricity transmission company wishes to postpone and change the dates or times of access from the planned dates and times already notified and set out in the notice of access, or any details of access that were set out in the notice of access, it must: (a) contact all affected parties at least 48 hours before the original planned date and time of access, detailing the information that has changed, using the form of communication for such changes set out in the notice of access; and</p>	<p>As discussed in section 2.4 above, we recommend amending this clause to refer to 24 hours.</p>
7.3.1(b)	<p>(b) use its best endeavours to contact all affected parties directly in person or by telephone or by way of requesting a confirmation reply using any form of electronic communication, provided the reply is not an automated response.</p>	<p>Redraft to make this a reasonable steps provision, what if the landholder or party with interests in the land are not home or not contactable by phone:</p> <p>(b) use its best endeavours reasonable steps to contact all affected parties directly in person or by telephone or by way of requesting a confirmation reply using any form of electronic communication, provided the reply is not an automated response.</p>

7.3.4	<p>An electricity transmission company must agree to a request made by an affected party under clause 7.3.2, unless: (a) the affected party making the request has made three or more requests under clause 7.3.2 that have already been approved by the electricity transmission company during the relevant access period; or (b) agreeing to the request would be likely to have a demonstrable material cost impact or lead to a demonstrable material delay to the new transmission project or significant upgrades or otherwise cause significant disruption to the electricity supply network; or (c) the request requires or creates a delay of more than 20 business days.</p>	<p>As discussed in section 2.4 above, we recommend amending this clause to only require the licensee “to negotiate in good faith” with the affected party giving regard the factor included in clause 7.3.4(a)-(c) and how much time there is prior to the scheduled land access.</p>
9.1.1(a)	<p>9.1.1. An electricity transmission company must require all people accessing land from 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 this Code of Practice; and</p>	<p>Delete the phrase “and comply with the <i>electricity transmission company’s</i> obligations under this Code of Practice”.</p>
9.2.1(a)	<p>9.2.1. When accessing land, an electricity transmission company must: (a) cause as little harm, inconvenience and damage as possible to the land, as well as to anything living on or growing on the land;</p>	<p>We recommend deleting clause 9.2.1. The licensee already bears this obligation under section 93(2) therefore its inclusion in the LACoP is duplicative and, by specifying this as a civil penalty provision, unfairly punitive.</p>
9.2.1(d)	<p>(d) minimise attendance where possible and appropriate with attendance limited to those people reasonably required to perform works;</p>	<p>Redraft to read: “minimise attendance where possible and appropriate, with attendance limit <u>attendanceseed</u> to those people reasonably required to perform works <u>or facilitate safe and lawful access;</u>”</p>
9.2.1(e)	<p>(e) leave all gates, fences, grids and any other assets as found, unless otherwise advised by an affected party, or where necessary and in accordance with good industry practice;</p>	<p>Redraft to read: “leave all gates, fences, grids and any other assets as found, unless otherwise <u>advised-directed</u> by an affected party, or where necessary and in accordance with good industry practice;”</p>
9.3	<p>9.3.1. An electricity transmission company must take the following actions in relation to biosecurity risks associated with land access: (a) consult with affected parties prior to issuing a notice of access to understand site specific biosecurity needs, including any applicable biosecurity management plans; (b) develop and implement biosecurity policies and procedures in accordance with good industry practice to minimise the spread of weeds, pests or pathogens, including ‘come clean, stay clean, go clean’ practices consistent with recommendations by Agriculture Victoria; (c) provide affected parties with details of any applicable biosecurity policies and procedures on request before accessing land;</p>	<p>We consider this clause is overly cumbersome and constraining to be a practical expectation for a transmission licensee. It does not allow flexibility for operational changes that may arise at late notice. It will lead to a template proforma style of biosecurity controls that may not accommodate landholder needs and further likelihood of dispute. This requirement needs to be amended to allow for process flexibility as agreed with landholders.</p>

9.3.1(d)	provide a report to affected parties within 15 business days after land access has concluded, which must include personnel in attendance, locations accessed, materials or chemicals utilised and a description of the activities undertaken on the land; and	AusNet offers to provide this information on our WRL project, however this has not been requested during the life of the project. The clause should be altered to provide upon request:
		<i>If requested by an affected party</i> , provide a report to affected parties within 15 business days after land access has concluded, which must include personnel in attendance, locations accessed, materials or chemicals utilised and a description of the activities undertaken on the land; and
9.4	Fire risk management	Relocate to Part 2.
9.4.1(c)	(c) provide affected parties with a copy of its bushfire mitigation plan and any other relevant policies and procedures on request.	Change "a copy of" to "access to". AusNet's Bushfire Mitigation Plan is available on our website, and we should be able to direct customers to it, rather than have to provide a hard copy.
9.5.1	An electricity transmission company must consult with affected parties prior to issuing a notice of access to understand property-specific needs associated with health risks.	Relocate to Part 2.
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.	The draft LACoP has not classified breaches or specified the reportable clauses and require us to report on 'Any Breach'. This is too broad and misses the opportunity to focus licensee compliance resources. We note this is deviation from the approach in the Electricity Distribution Code of Practice (EDCoP). We strongly suggest the LACoP specifies reportable clauses in the same manner and form as the EDCoP.
Schedule 2.7.	7All breach reports must be made using the relevant compliance reporting template located on the commission's website. All breach reports must be submitted via email to compliance.reporting@esc.vic.gov.au .	For other Code of Practice obligations, we are required to submit a breach via the portal as opposed to submitting it via email. There is no mention of how they want the monthly report submitted. This is inconsistent with their other process where we are required to submit via the portal.

Appendix C: current notification process of organising land access

Letters based on the process outlined in the Landholder Guide: Land access for field surveys and investigations




STEP	DESCRIPTION
General Landholder Communication	
1	Project introduction letter Every landholder within the proposed route is sent a project introduction letter, including where to find more information on the project.
2	Land access request for field surveys We will send all landholders along the proposed route a general request to consider providing voluntary consent for AusNet to access their land to undertake field surveys and investigations. These may include, for example, land use or general flora and fauna surveys. Landholders will also receive a template voluntary land access consent form for their consideration.
Specific Survey Request i.e., identified survey requirement such as Aboriginal Cultural Heritage or Geotechnical	
3a	Request to access property for specific survey (issued minimum of 21 days prior to planned access) The LLO will contact the landholder, via their preferred method, to request access to the property for a specific purpose and timeframe. We will provide the landholders with the voluntary land access consent form to consider.
3b	Follow up request to access property for specific survey may be sent where consent has not been provided (optional) (issued minimum of 14 days prior to planned access) We may send the landholder a further request for access to their property for a specific purpose and timeframe and outline the process. The LLO will follow up with a meeting, phone and/or email to the landholder.
Voluntary Access Agreed	
4a	Confirmation of intention to enter property via voluntary consent (issued minimum of 7 days prior to planned access) We will confirm the upcoming property access, activities and details 7 days prior to the landholder, or as agreed with the landholder.
5a	Confirmation notice of entry via voluntary consent (on the day of access) The LLO will contact the landholder 24 hours prior to, and on the day of, access to confirm arrangements, or as agreed with the landholder.
Section 93 Access	
4b	Notice of intention to enter via s93 of the Act (issued minimum of 7 days prior to planned access) We will send the landholder notice 7 days prior advising access to their property will be undertaken using powers under section 93 of the Electricity Industry Act 2000(Vic) with full details of activities.
5b	Notice of entry via s93 of the Act The LLO will contact the landholder 24 hours prior to, and on the day of, access to confirm arrangements.

Note: there are specific requirements for Aboriginal cultural heritage field surveys under the Aboriginal Heritage Act 2006 (Vic) which must be considered.

AusNet Services

Level 31
2 Southbank Boulevard
Southbank VIC 3006
T +613 9695 6000
F +613 9695 6666
Locked Bag 14051 Melbourne City Mail Centre Melbourne VIC 8001
www.AusNetServices.com.au

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