



Making a Land Access Code of Practice

Draft Version for consultation

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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 for *electricity transmission companies* to access *private land* where necessary under Section 93 of the Act to support the provision or proposed provision of essential services, the rights of those interested in the land affected by that exercise of Section 93 power and any other legal obligations outside the scope of Section 93 that may impact such access;
- (b) regulate how *electricity transmission companies* access *private land* using powers derived from section 93 of the *Act*, including the limits of these powers and conformance with any related conditions in an associated transmission licence;
- (c) establish conditions for *electricity transmission companies* using powers derived from section 93 of the *Act*, including consultation and notice requirements;
- (d) regulate actions *electricity transmission companies* must take when entering access agreements prior 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 [proposed date of commencement to be inserted].

Commented [VJ1]: As per comment against 1.1.2(d) below, this paragraph should be moved down the order of objectives so that the present (d) becomes (a). This supports the intention discussed in the draft decision document.

Deleted: to provide their

Deleted: and

Commented [GR2]: We also propose as a parallel matter that existing transmission licences be amended to include a new common condition to ensure formal compliance with the Land Access Code of Practice and provide for proper compliance enforcement e.g:

Private land access via Section 93 or land access agreement.

All land access via Section 93 powers or via access agreement must be in full accordance with the Code of Practice

And we proposes that any new transmission licenses include the same.

Commented [VJ3]: How is this Code regulating actions with regard to entering into access agreements as the first step to gaining access? Is 'regulate' the correct word? Would 'guide' be a better word?

Also we suggest that this objective would be better off located at the beginning i.e. be identified as 1.1.2 (a). We consider that this supports the intention discussed in pages 32-33 and 34 of the draft Decision Document.

Deleted: as an alternative

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 [Division 7](#) of this Code of Practice.

Act means the *Electricity Industry Act 2000*.

affected party/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* in connection with a *new transmission project* or a *significant upgrade*.

biosecurity management plan means a [biosecurity management plan developed in accordance with the *Livestock Management Act 2010*](#).

breach means . . .

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*.

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.

Commented [VJ4]: We suggest that the whole of Division 7 is referenced as it contains many requirements that are integral to each other and the actions around notification of access and time periods.

Deleted: clause

Deleted: 7.3.1

Deleted:

Commented [VJ5]: The definition of a biosecurity management plan may need to go beyond mentioning this one Act.

We suggest the ESC seek expert input and advice from relevant personnel at Agriculture Victoria and also from the Victorian Farmers Federation to understand how farmers undertaking various activities including horticulture, and not just livestock management, are expected to manage biosecurity in all aspects of their farming practises.

It may be that the definition will need to be more broadly encompassing of the range of farming biosecurity obligations.

Commented [VJ6]: Should this be defined re: what it means for this Code?

Being able to determine if an action is a breach of this Code is critical.

We note that the ESC has a "Compliance and Performance Reporting Guideline" but that it only applies to reporting obligations for energy retailers and gas distributors. reporting obligations for energy retailers and gas distributors

We also note that the ESC has a "Compliance and Enforcement Policy" - should this be referenced? Are there any other ESC guidelines or policies that should be referenced?

Council has the same meaning as in section 3(1) of the *Local Government Act 2020*.

Cultural heritage management plan has the same meaning as in section 42 of the *Aboriginal Heritage Act 2006*.

dispute means . . .

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/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 the safety or health of any person, or the safe, secure or reliable operation of the electricity transmission system, or that destroys or damages, or threatens to destroy or damage, any property.

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, including:

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

Commented [VJ7]: We note that in the Draft Decision Paper, on page 61, ESC quotes AusNet's previous submission in which they raised that there is no distinction between a 'complaint' and a 'dispute' and that this makes it difficult to ensure that concerns have been handled under the appropriate process.

We consider that a definition of 'dispute' is necessary. Further comments on the complaints handling and dispute resolution processes are in our Stakeholder Views and Feedback document against question 10.

Commented [VJ8]: Just a side question - Are the transmission assets specified in any detail in the licence? Or just generally?

Commented [VJ9]: Is there a way to require that this includes all records created in the earliest phase when a voluntary access agreement is discussed as well as those created if the company needs to use section 93 powers?

Commented [VJ10]: We question if this sufficiently captures all the records created. What about a record of all information provided by one party to the other? See comments in our 'Stakeholder Views and Feedback' document against Question 13.

maximum access period has the meaning set out in clause 7.3.2 of this Code of Practice.

Commented [VJ11]: Check this - It seems to be in Clause 7.2

new transmission project means any project that involves, or is proposed to involve, preliminary activities and works undertaken by an electricity transmission company on private land that:

Commented [VJ12]: See suggestion below to add a definition for preliminary activities.

- (a) prior to undertaking those works, does not contain any existing electricity transmission assets; and
- (b) are expected to commence the construction phase after the commencement date of this Code of Practice.

notice of access means a notice that complies with Division 7 of this Code of Practice.

Deleted: clause 7.1.2

occupier means a person having some current or imminent rights to possession or occupation of the land, either by a lease, licence or any other contractual arrangement that is confirmed by the landowner.

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 in connection with a new transmission project or a significant upgrade:

- (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 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 a lawful 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*.

preliminary activities means . . .

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*; or
- (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; or
- (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*.

registered Aboriginal party has the same meaning as in Part 10 of the *Aboriginal Heritage Act 2006*.

significant upgrade means **preliminary activities and works** undertaken, or proposed to be undertaken, by an *electricity transmission company* on *private land* that

- (a) 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
- (b) are expected to commence the construction phase after the commencement date of

Commented [VJ14]: We consider that this needs defining given that it precedes 'works' (defined) and as per p.28 is one of the activities that the Code is intended to apply to.

ESC should then assess the draft Code text to determine if it needs to be added before any mention of works e.g. "preliminary activities and works".

Commented [VJ15]: See suggestion above to add a definition for preliminary activities.

Commented [VJ16]: This really needs unpacking.

The difficulty with the present problems surrounding proposed new transmission line builds, for example, is that landowners with existing easements would be greatly concerned by any proposed *significant upgrade*. They may not know if there is an existing access agreement or what that access agreement may contain.

Given that many of the transmission lines that are likely to be augmented or extended in the future were built a number of decades ago, and that access agreements may be short and favor the electricity transmission company there may be a great disconnect in expectations by all parties.

Issues that may arise may include but not be limited to:

- access to an existing easement may involve access for preliminary activities and works upon land outside this easement (eg. access tracks) that may not be part of an existing easement or access agreement and so must form part of this scope.
- an existing easement may exist but may need to be widened for an upgrade project, so the widened area would not necessarily be covered by an existing access agreement or easement, and so must form part of this scope.

this Code of Practice.

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 an affected party/affected parties and/or other parties interested in land, the notice, information or other document must be in writing and may be provided:

(a) to a natural person/s:

- ▼
- ▼
- ▼ by sending it by registered post to the last known address of the place of residence of the person/s; and

(i) if the person/s has given prior consent to receiving notices, information or other documents electronically from the sender, by sending it electronically to that person's nominated email address;

(b) to a body corporate:

- ▼
- ▼
- (i) by sending it by registered post to the registered office of the body corporate; and
- (ii) if the body corporate has given prior consent to receiving notices, information or other documents electronically from the sender, by sending it electronically to that body corporate's nominated email address.

2.2.2. Any notice required to be given under this Code of Practice is to be regarded as having been served on that person:

(a) as the date the registered letter was received as per public Australia Post timestamp

Deleted: person

Commented [VJ17]: You may have already sought legal advice on how best to ensure the electricity transmission company undertakes all due diligence to connect with landowners. If not can we suggest that such discussions are had with parties (legal or otherwise) who can advise on the best/correct protocols to be followed.

This has been very problematic for WRL landowners - see further comments below.

Deleted: (i)

Deleted: by delivering it to the person personally or if the person does not accept the notice, information or other document, by placing it in the person's presence and telling the person the nature of the notice, information or other document; or... (ii) (ii)

Commented [VJ18]: There needs to be considerable effort made by the electricity transmission company to determine that all communication is being made to the correct person and the correct address.

Deleted: (ii)

Deleted: by delivering it to a person over the age of sixteen years at the last known address of th...

Deleted: (iii)

Deleted: or

Deleted: by sending it electronically to that person ...

Commented [VJ19]: There needs to be clear formal notice - we believe registered post must be required if...

Deleted: or

Commented [GR20]: As above

Deleted: (i)

Deleted: by delivering it to an officer of the body corporate or an employee over the age of sixteen...

Deleted: or

Deleted: by sending it electronically to that body corporate ...

Deleted: consented

Deleted: (a)

Deleted: if delivered in person, on the day when the notice is delivered;

Deleted: if sent by post, four business days after

Deleted:

record;

Commented [VJ21]: As per comments above

Deleted: of posting

Deleted: if it is an electronic communication, at the time determined in accordance with the *Electronic Transactions (Victoria) Act 2000*.

3. Application

3.1. Application of this Code of Practice

3.1.1. An *electricity transmission company* must comply with this Code of Practice in relation to the identified stages of all new transmission projects and significant upgrades to existing transmission projects.

Commented [VJ22]: The stages are not clearly identified in the early part of the Code. There is discussion on these stages in the Draft Decision Document >"preliminary activities and works" for new transmission projects and more limited proposed stages for significant upgrades - noting that this is more complicated because of existing easements and possible access agreements. See our comments in 'Stakeholder Views and Feedback' document against Questions 2 + 3.

3.1.2. This Code of Practice applies to *electricity transmission companies*:

- (a) where they access, or propose to access any land under section 93 of the Act that is private land;
- (b) in relation to actions they take when seeking to enter 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; and
- (c) where they access, or propose to access any land under section 93 of the Act that is private land;
- (d) in relation to the record keeping and reporting obligations set out in Part 4 and Schedule 2 of this Code of Practice.

Commented [GR23]: Section 93 applies also to:
- access during operations phase of transmission projects, noting access is often by other land than the easement. This should be captured here.
- other electricity corporations, including distribution companies - how is that being dealt with. This does not need to be captured here, but should be somewhere?

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.

Commented [VJ24]: We suggest that this part be reordered to better step through the stages of electricity transmission companies seeking to enter into an appropriate access agreement as a first principle followed by any necessity to use section 93 of the Act.

3.1.4. This Code of Practice does not apply where land is accessed in accordance with an access agreement entered into prior to the commencement date of this Code of Practice and that is still in force at that commencement date, other than where Division 13 in Part 4 of this Code of Practice expressly provides otherwise in relation to the reporting obligations in that Part.

This also more clearly signals the intentions in the draft Decision Paper to ensure that electricity corporations have regard to this Land Access Code of Practice in negotiating an access agreement - As per discussed in the draft Decision Paper.

Deleted: entering

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*.

Commented [VJ25]: Why would they not apply?
By making this statement it may be that a company believes that the obligations under 9 and 11 don't apply at all to an access agreement - particularly at the early access agreement negotiation stage? Happy to discuss this concern further.

- (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

How could this clause be re-framed to ensure that they do apply when an access agreement is negotiated? Any development of an access agreement would need to have regard to 9 and 11. See 1.1.2 (d) and 3.1.2 (b) in this draft Code.

relation to compliance with this Code of Practice by its contractors.

Commented [VJ26]: How can this be ensured?

Could there be a requirement for formal 'proof' to be provided by the electricity transmission company of this process having been undertaken to be carried by all contractors, personnel etc e.g. could an 'induction training' card be required? E.g. no one can access a building site without a White Card.

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* in a manner that:

- (a) provides *affected parties and other parties interested in land* 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*.
- (a) involves timely, staged, relevant and appropriate 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) results in *electricity transmission companies* understanding and taking into account property-specific needs related to accessing of *private land*;
- (e) provides information to *affected parties* that enables them to understand the nature and potential impact of the *works* associated with any proposed *new transmission projects* or *significant upgrades to existing transmission projects* and the proposed access to *private land*, their rights and obligations and the rights and obligations of the *electricity transmission company* under the *Act*;
- (f) provides information to *affected parties* regarding the details of how access to *private land* is proposed to occur, and involves consultation with them before finalising those details, including but not limited to the timing of *works*, the purpose of access, the types of activities to be conducted on the land and the estimated duration of each instance of access;
- (g) provides advance notice to *affected parties* of proposed access to *private land*; and
- (h) 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*.

Commented [VJ27]: We suggest that this obligation be moved to the beginning to appropriately reflect that an *electricity transmission company* must seek to establish an access agreement before proceeding to use access powers under section 93.

Commented [VJ28]: Compensation does not seem to be a matter that is addressed to any degree in the Code. Should this more simply say "understand their rights if access is made by an *electricity transmission company* under section 93 of the *Act*"?

Commented [VJ29]: Reorder all from this point if (g) is moved to (a)

5. Communication and engagement

5.1. Obligation to engage and consult

5.1.1. An *electricity transmission company* must engage and 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*.

5.1.2. Before accessing land in accordance with an *access agreement* or by exercising its access powers under section 93 of the *Act*, 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;
- (b) inform all *affected parties* and *other parties interested in land* of the proposed access to *private land*, including providing the information at clauses 5.2.1(a), 5.2.1(c), and 5.3.1 of this Code of Practice;
- (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; and
- (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.
- (e) [Understand the legal limitations of Section 93 access powers and that other legislation and regulations may affect access and may not be subject to the Act.](#)

5.2. Information about new transmission projects or significant upgrades on existing transmission projects

5.2.1. In relation to each *new transmission project* or *significant upgrade* proposed to be undertaken by an *electricity transmission company*, the *electricity transmission company* must publish on its website:

- (a) as early as is practicable in the planning phase of the project, details of the project, and the proposed timeline and key milestones for the project;
- (b) updated versions of the information in paragraph (a), as soon as reasonably practicable after that information changes;
- (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

Commented [VJ30]: What does consult mean in this context?

There are very distinct meanings in the public realm - the IAP2 spectrum - see https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf

The WRL landowners and communities have experienced extremely poor engagement and consultation in their interactions (both for the public and for private landowners) with AusNet. It is hard to know if this Code will cause a reset. The Statement of Expectations did not lead to any change for some interactions with WRL impacted parties and there may need to be some sort of standard set that *electricity transmission companies* are required to meet.

Deleted: to

Commented [VJ31]: This goes back to clause 2.2

Commented [VJ32]: If our suggestion to reorder these sections is accepted these clause numbers will need checking.

Commented [VJ33]: Does this adequately capture discussion on p.45 of the draft Decision Document?

Commented [VJ34]: As discussed a the round table in Ballarat - it is critical that contractors and other personnel acting on behalf of an electricity transmission company do not presume that section 93 access powers are above any other legislation and regulations to which the landowner and any visitors are obliged to adhere.

Commented [VJ35]: We suggest that this be moved to the end of this Division. It fits more appropriately at this point - after obligations for contact, and communications and engagement are outlined.

Act, including the option to enter into an *access agreement*;

- (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 stages of the project; and
- (e) timely updates of progress of the project.

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 full name, role and telephone number.
- 5.3.2. An *electricity transmission company* must take reasonable steps to ensure a point of contact responds, with in 2 business days, to contact by an *affected party* or *other parties interested in land* related to land access for *new transmission projects* or *significant upgrades* during business hours and any other reasonable times during which land access occurs.

5.4. Communication and engagement

- 5.4.1. An *electricity transmission company* must have regard to and consider feedback and any other legal obligations notified by affected parties and other parties interested in land 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*.
- 5.4.2. An *electricity transmission company* must ensure that anyone contacting any *affected parties* or *other parties interested in land* regarding proposed land access, *access agreements*, or regarding changes to proposed land access or *access agreements*, from or 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 phone, email or in person);
 - (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
 - (c) has the relevant skills, training and qualifications to undertake their allocated tasks in accordance with this Code of Practice; and
 - (d) carries appropriate identification in accordance with clause 5.4.5 of this Code of Practice, sufficient to identify that person and their position within the *electricity transmission company* when accessing any land and produces that identification on request by any person.

Commented [VJ36]: We note that cl 5.4.2 below (proposed by us to become 5.3.2) contains requirements that the point of contact should be obliged to follow. We suggest that 5.4.2. (5.3.2) be referenced in this clause 5.3.1 (now proposed by us to become 5.2.1)

Commented [VJ37]: Unreasonable delay is too open ended - landowners need to be treated with respect - they will be stressed about this process and should be responded to in a professionally appropriate timeframe. This has often not occurred in the WRL/AusNet experience.

Deleted: out unreasonable delay

Commented [VJ38]: What does this mean? Are the words 'regard to and consider feedback' too undefined? Are the actions defined elsewhere?

Landowners and communities along both WRL and VNI West corridors feel burned by being asked for feedback that is not considered and this will follow through to the seeking of access.

Commented [VJ39]: This contradicts 5.3 (proposed by us to become 5.2) - there really should be only one person as the point of contact at all times - not have a landowner potentially contacted by any number of other people for any number of reasons.

"From or on behalf of" appears to also cover contractors and other personnel who may be accessing land for EES purposes.

If the *affected parties* or *other parties interested in land* consent ahead of time to being contacted by particular parties, as agreed with the point of contact person then this clause is useful.

Commented [VJ40]: See also comments to clause 3.1.5. Training to ensure obligations under the Code are fully understood and will not be breached is critical to ensure that the burden on landowners by access under section 93 powers is as minimised/mitigated as possible.

Is there anyway to ensure this training occurs and that contractors and personnel DO have the relevant skills, training etc. And that there is evidence of this having happened formally? We were advised (Vicki in a Community Consultation Group meeting) by AusNet that shortly after the SoE came out they held a few sessions and discussed it. The advise was that not protocols or templates were established (at that time)

5.4.3. 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; and
- (b) include contact details of translation and interpreting services.

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 from an access period 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. This would include all written reports, surveys and other information produced on behalf of the electricity transmission company in relation to the land subject to the access. This information can be requested any time within 3 years after the access period, and is to be provided in full within 20 business days of written request.

5.4.5. In meeting its obligations under clause 5.4.2 of this Code of Practice, an *electricity transmission company* need not disclose the full names of individuals acting for or on its behalf, provided that all individuals accessing *private land* have identification or written authorisation provided by the *electricity transmission company* that an *affected party* can inspect upon request and readily verify the authenticity of the identification or written authorisation with the *electricity transmission company*.

5.5. Information about new transmission projects or significant upgrades on existing transmission projects

5.5.1. In relation to each *new transmission project* or *significant upgrade* proposed to be undertaken by an *electricity transmission company*, the *electricity transmission company* **must** publish on its website:

- (a) as early as is practicable in the planning phase of the project, details of the project, and the proposed timeline and key milestones for the project;
- (b) updated versions of the information in paragraph (a), as soon as reasonably practicable after that information changes;
- (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*;
- (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 stages of the project; and
- (e) timely updates of progress of the project.

Commented [VJ41]: How are 'appropriate and reasonable' to be defined and/or measured?

Deleted: equested

Commented [VJ42]: Is this for the general dissemination of information or to be targeted at specific parties who may be impacted? Noting that the original WRL area of interest was 2000km² and over 200km long as well as extremely wide in places - see https://www.planning.vic.gov.au/_data/assets/pdf_file/0/034/474559/Attachment-B-Detailed-Map-of-the-Area-of-Interest.pdf

This requirement presumes that all potentially impacted communities and landowners, particularly *affected parties* and *other parties interested in land*, have internet access and/or are comfortable with receiving information only by this method.

It does also require people to be English speaking and not be visually impaired and have a level of ability to navigate the internet and knowledge that a page on the *electricity transmission company's* website even exists.

And how might anyone know if a project specific website is set up? This is the WRL lived experience, and similar has happened for VNI West and that was originated by AEMO.

Are there other methods that can be prescribed as well? Noting that broad mail drops by AusNet in early days were hit and miss because of poor implementation and later abandoned.

Commented [VJ43]: Same issues as in comment above plus how will people be advised that the information has changed?

Commented [VJ44]: This information should be made more widely available than just published in the company's website.

It would preferable if a single subject FAQ (not part of a multi-paged handbook) was prepared for the use and information of all parties. It should outline all aspects of access whether by agreement or under section 93. And should incorporate information in Divisions 6 and 7.

This is a critical piece of the engagement process.

6. Information on proposed access

6.1. ESC approved access policy – access rights and obligations

6.1.1. Prior to entering into an access agreement or giving a notice of access in accordance with clause 7.1.1 of this Code of Practice, an electricity transmission company must prepare and publish on its website an access policy for the transmission project, to the satisfaction of the ESC, that clearly explains:

- (a) the rights of the *affected party* under section 93 of the *Act* and this Code of Practice, and include notice that these rights are limited and may not impact any other rights of the affected party under other legislation and regulations;
- (b) the rights and obligations of the *electricity transmission company* under section 93 of the *Act*, this Code of Practice and any relevant condition of its transmission licence, including obligations for making full compensation for any damage sustained;
- (c) mitigation and compensation protections that apply to access under section 93 of the *Act*, including any requirements regarding compensation that may apply under the *Land Acquisition and Compensation Act 1986*;
- (d) how the rights and obligations of the *electricity transmission company* and *affected parties* differ under:
 - (i) the terms of any access agreement, and
 - (ii) land access under section 93 of the *Act*; and

(e) the effect of entering into any *access agreement*, including the purpose and effect of any payments that are proposed to be made by the electricity transmission company under an access agreement.

(f) details of the transmission licence that the electricity transmission company is relying upon to make section 93 access including written confirmation from the ESC that such licence does cover the transmission project.

6.2. ESC approved access policy – notice of access

6.2.1. Further, prior to entering into an access agreement or giving any notice of access in accordance with Division 7, an electricity transmission company must prepare and publish on its website an access policy for the transmission project, to the satisfaction of the ESC, that details:

- (a) The processes for the *electricity transmission company* to make decisions relating to the proposed land access;

Commented [VJ45]: We continue to strongly advocate for an ESC approved access policy to be required as a **minimum base set of documents** - letter templates, protocols, a consultation plan etc - so that the ESC and the electricity transmission company can be 'on the same page' re: expectations for information dissemination and ongoing compliance. This should be framed as a live policy that the company develops as required during the project.

We note that many other parties - AEMO, AusNet, AEIC amongst them - recommended similar in their previous submissions and the Draft Decision document quotes and discusses these recommendation. We note that ESC did provide a response but we have comments about that.

See comments in 'Stakeholder Views and Feedback' document against Question 5.

Deleted: Information on

Commented [VJ46]: Reordered the words to better reflect the steps that need to be taken to gain access

Deleted: or entering into an access agreement

Deleted: provide notice, information or other documents to all affected parties

Deleted: and

Deleted: (ii)

Deleted: the terms of any access agreement, and

Deleted: S

Commented [VJ47]: Same comment as for 6.1 - it is critical that policies and protocols be developed ahead of time and approved by the ESC as base level requirements

Deleted: Information on proposed

Deleted: P

Commented [VJ48]: We suggest reordering the words to better reflect the steps that need to be taken to gain access

Deleted: clause

Deleted: 7.1.1

Deleted: or entering into an access agreement

Commented [VJ49]: It would also be appropriate for a single subject FAQ sheet to be developed on this matter. Not lost in a multi page handbook.

Commented [VJ50]: These all perhaps need some reordering to have a level of staging - those actions th...

Deleted: provide to all affected parties the following information

- (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;
- (c) how the proposed land access interacts with environmental, planning and other relevant statutory approval processes;
- (d) 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);
- (e) the property details for each allotment etc related to the access;
- (f) the proposed access period;
- (g) the specific planned date/s, times and estimated durations of when each access to land is sought within the access period, giving affected parties the clear ability to properly manage the access;
- (h) the foreseeable variables that may affect the planned dates, times or duration of access;
- (i) the purpose of access and the types of activities to be conducted on the land during access;
- (j) the specified area or areas of land which are requested to be accessed and the expected point or points of entry (if this can be reasonably identified prior to gaining physical access);
- (k) the equipment expected to be brought onto the land and the purpose it will be used for;
- (l) the number of people expected to enter the land on behalf of the *electricity transmission company* and the organisations they represent;
- (m) the names, role and contact details of people expected to enter the land on behalf of the electricity transmission company and the organisations they represent;
- (n) how the *electricity transmission company* will comply with any specific land management obligations, including biosecurity laws and any applicable *biosecurity management plans*;
- (o) the detailed process of notice that will be followed prior to accessing and during access to land;
- (p) how any changes to the proposed dates or details of access will be communicated and managed;

Commented [VJ51]: This is really the first time that stages are specifically mentioned. They need to be introduced earlier in the document.

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Commented [VJ52]: Should not be an open ended period of time over many weeks with no specific day which is what WRL landowners are experiencing

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Deleted: and

Deleted: and the proposed

Commented [GR53]: (without specific dates/times this is impossible and unfair)

Commented [VJ54]: See also 7.2.2

Deleted: access period,

Deleted: (e)

Deleted: the estimated duration of each instance of access;...

Deleted: period

Deleted: provided

Commented [GR56]: Statement of Expectations

(q) 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

Deleted: .

(r) [The process for handling disputes or complaints...](#)

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

6.2.3. [ESC approval of access policy for a transmission project](#)

[Details of process for ESC to review draft access policy and give it approval](#)

Commented [VJ57]: We would appreciate the opportunity to discuss this further with the ESC

7. Notice of access under section 93

7.1. Notice of access

7.1.1. After providing information in accordance with [all Divisions and clauses up to and including](#) clause 6.2.1, [and if an access agreement has not been achieved](#), 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* [in accordance with clause 2.2 and this Division 7](#) prior to accessing land under section 93 of the Act.

7.1.2. A *notice of access* must:

(a) be given at least 20 *business days* after [giving notice under clause 5.1](#) on the proposed access in accordance with [Division 6](#), and at least 10 *business days* prior to the start of the access period; and

Deleted: providing information

Deleted: clause

Deleted: .2.1

(b) specify:

(i) the access period;

(ii) the [specific](#) planned dates and times of access to land of an *affected party* during the access period; and

Commented [VJ58]: Cannot be open ended

(iii) details of the access, including the information in clauses 6.2.1(f) to (n) or any updates to that information.

Commented [VJ59]: There will need to be a number of notices of access within the access period - not just one blanket notice - does this need to be made clear somewhere?

7.1.3. An *electricity transmission company* must send a reminder [by at least 48 hours](#) before each proposed access during the *access period*, directly in person, by telephone or by way of requesting a confirmation reply using any form of electronic communication [all as previously](#) agreed with the *affected party*.

Commented [VJ60]: Check this 'numbering' following possible changes within this clause

Commented [VJ61]: Or say 2 business days? It would perhaps not really be appropriate to have a reminder go out on Friday evening for Monday morning.

Deleted: which must be given by at least 48 hours before each proposed access

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 2 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 such expiry) that:

- (a) explains why continued access to the land is necessary; and
- (b) for the avoidance of doubt, complies with Division 7, 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 (n).

7.3. Changes to notified access

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* (excepting that the access period cannot be changed); and
- (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; and
- (c) in the event no contact with all affected parties can be made, then access is not permitted.

7.3.2. An *affected party* may request that the *electricity transmission company* changes 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.

7.3.3. If an *affected party* makes a request under clause 7.3.2, the *electricity transmission*

Commented [VJ63]: A reasonable period of time for both parties is critical - but also need to relate back to 6.2.1 and 7.1.2 where notification and days/times need to be reasonable and specific.

If everything is too open-ended the landowner ends up being at the beck and call of the electricity transmission company and their contractors and other personnel over a long period of time.

Deleted: 6

Deleted: s

Deleted: clause

Deleted: .1.2

Commented [VJ64]: Check this 'numbering' following possible changes within this clause

Commented [VJ65]: At least two business days? For example 48 hours over the weekend is not appropriate.

Deleted: .

Commented [GR66]: Otherwise there is a loophole of last minute notice of changes to force their way

Commented [VJ67]: It is critical that this is stated as we have evidence of AusNet contractors/personnel cutting gate chains to effect access. And of other contractors/ personnel wandering over a paddock when a landowner had no knowledge they were there (neighbours have witnessed this and checked in with the relevant landowner).

company must:

- (a) advise the *affected party* and all other *affected parties* whether it agrees to the request;
- (b) advise all *affected parties* of the amended date and time of the proposed access if it agrees to the request; and
- (c) provide written reasons to the *affected party* if it does not agree to the request.

7.3.4. 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* under the relevant *notice of access*; or



- (b) the request requires or creates a delay of more than 20 *business days*.

7.4. Exceptions to notice requirements

7.4.1. The notice requirements in Division 7 of this Code of Practice do not apply:

- (a) if all *affected parties* of the *private land* consent in writing to the entry; or
- (b) in an *emergency* only for transmission projects that are in the construction, operational or decommissioning phases whereby physical transmission assets are installed on the land.

7.4.2. 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.

7.5. Non-compliance and right of refusal to access

In the event that the *electricity transmission company* attempts access that is deemed by the *affected party* to not be in conformance with any provision of Division 7, the *affected party* has the right then and there to refuse access by providing written notice via email to the complaint contact detailed in..... Failure to respect this notice may result in an unlawful access to land action (eg. trespass) being taken against the transmission company.

Commented [VJ68]: What can compel the company to agree? What could allow them to not agree? What kind of standoff might occur? How could that be resolved? Or is it all adequately covered in 7.3.4?

Deleted: during

Deleted: period

Commented [VJ70]: Agree - demonstrable to who? Who oversees this?

Deleted: (b)

Deleted: 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

Deleted:

Commented [GR71]: There is no reason that an *emergency* would need a transmission company before construction/operation to access the property

Deleted:

Commented [VJ72]: Something along these lines is necessary to protect the landowner from having to accept poor process or bullying at one point in time and then have to make a complaint later.

But this will also be a difficult situation if the landowner exploits this 'option'.

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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 require *electricity transmission companies* to take actions when accessing land under section 93 of the Act to minimise the impact of land access on *affected parties*, or other parties interested in land, and on the land itself, consistent with their 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 land from or on behalf of the *electricity transmission company* to:

- (a) conform with all State and Federal laws and regulations;
- (b) 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
- (c) respect the privacy, private assets and infrastructure of *affected parties*.

9.2. Risk minimisation during access

9.2.1. When accessing land in accordance with this Code of Practice, an *electricity transmission company* must:

- (a) Abide by the requirements of any other State and Federal Laws and Regulations that is known to them after having done due diligence for the project, or has been brought to their attention by any affected parties or other parties interested in land.
- (b) cause as little harm, inconvenience and damage as possible to the land, as well as to anything living on or growing on the land;
- (c) not stay on the land any longer than is reasonably necessary;
- (d) remove all plant, machinery, equipment, goods or buildings brought onto, or erected

Commented [VJ73]: This is one of the Divisions that clause 3.1.3 says does not apply if an access agreement is in place. We suggest that there needs to be an obligation included in the Code that an access agreement needs to have regard to this Division.

Commented [VJ74]: This may need to also include a catch-all phrase about relevant industry guidelines (eg VFF) and regulations.

Commented [VJ75]: Same comments about training and evidence of training as at 3.1.5 and 5.4.2

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);

- (e) minimise attendance where possible and appropriate with attendance limited to those people reasonably required to perform *works*;
- (f) 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;
- (g) 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
- (h) inform *affected parties* in writing when land access has concluded, outlining the activities that were undertaken in 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 land access:

- (a) understand the provisions, obligations and rights of affected parties under relevant biosecurity legislation and regulations and how they may affect accessing land under section 93 of the Act;
- (b) consult with *affected parties* prior to issuing a *notice of access* to understand site specific biosecurity needs, including any applicable *biosecurity management plans*;
- (c) 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;
- (d) provide *affected parties* with details of any applicable biosecurity policies and procedures before accessing land under any notice of access;
- (e) provide a report to *affected parties* within 7 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
- (f) document any environmental or biosecurity incidents that may occur when accessing land under section 93 of the Act and/or any notice of access and communicate them to *affected parties* immediately.

Deleted: landholders

Commented [VJ76]: Or should this be incorporated into the obligation below?

Deleted: S

Commented [VJ77]: The landowner or other affected party should be given the opportunity to approve or reject these policies if they are not in accord with other obligations under other legislation that the landowner has to abide by.

Deleted: on request

Commented [VJ78]: At the roundtable discussion in Ballarat the landowners there expressed deep concern about not knowing who might be on their property, where they had been before and after. Timely tracking of sounded like it was critical. 7 business days may not even be timely enough.

Deleted: 15

Commented [VJ79]: This is a paramount obligation! How can this be made very, very clear?

9.4. Fire risk management

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

- (a) consult with *affected parties* prior to issuing a *notice of access* to understand property-specific needs associated with fire risks;
- (b) implement policies and procedures to identify and mitigate fire risks in a manner consistent with its *bushfire mitigation plan*; and
- (c) provide *affected parties* with a copy of its *bushfire mitigation plan* and any other relevant policies and procedures prior to the first access under any notice of access.

9.5. Health risk management

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.

9.5.2. An *electricity transmission company* must implement policies and protocols in relation to health risks associated with land access.

Commented [VJ80]: This is also a training issue - a landowner (a CFA volunteer) advised us that he had seen a ute driving around in long dry grass during summer without any equipment, such as a tank of water, available to extinguish a fire. He was abused by the contractor when he called them out on this.

Commented [VJ81]: Would this be a company wide plan or project specific?
And is it written to cover contractors and personnel in the early EES investigations phase?
The argument from AEMO and AusNet is always that towers don't cause fires but even investigation can - see above comments - and so can construction - assesment for Project EnergyConnect in NSW go into detail on that.

Deleted: on request.

PART 4: Dispute resolution, record keeping and reporting

10. Objectives of this Part

10.1. Objectives

10.1.1. The objectives of this Part are to require *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. Prior to accessing land, an *electricity transmission company* that proposes to access land under section 93 of the *Act* for *new transmission projects* or *significant upgrades* must enter into a customer dispute resolution scheme approved by the *commission* for the purpose of this clause and remain a participant in that scheme while any access under section 93 of the *Act* is being considered or undertaken.

11.1.2. An *electricity transmission company* that proposes to access land under section 93 of the *Act* must take the following actions in respect of *complaints* and disputes raised by an *affected party* in relation to land access, or proposed land access, under section 93 of the *Act* in connection with a *new transmission project* or *significant upgrades*:

- (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

Commented [VJ82]: This is one of the Divisions that clause 3.1.3 says does not apply if an access agreement is in place. We suggest that there needs to be an obligation included in the Code that an access agreement needs to have regard to this Division.

Commented [VJ83]: It has not been made clear that there would need to be an internal complaint and dispute resolution process first. See further comments in 'Stakeholder Views and Feedback' document against questions 10 + 11.

Commented [VJ84]: This is not strictly a 'customer' dispute resolution issue because it involves affected parties who have not sought out land access interactions with the electricity transmission company. And as these parties have already proved unwilling to voluntarily agree to access, access without consent is already implicitly under dispute.

Furthermore, if the communication methods and information provided by the electricity transmission company is inadequate in accordance with the Code, how is the affected party to know what their rights might be?

The dispute resolution will need to be readily able to deal with what is likely to be a great variety of issues. If the ESC approves, for example, the established EWOV scheme as the customer dispute resolution scheme for the land access matters regulated in this Code of Practice can it be assured that EWOV can respond and deal with all issues that may arise?

What guidelines, protocols etc is the establishment of a dispute resolution scheme required to have regard to? Or are the matters in 11.1.2 to comprise the scheme? What will the process be to have the scheme approved by the commission?

Commented [VJ85]: Are these actions to fully comprise or be part of the customer dispute resolution scheme?

Commented [VJ86]: Who determines what timely is?

Commented [VJ87]: This information should be made more widely available than just published in the company's website. It would preferable if a separate FAQ was prepared for the use and information of all parties outlining all aspects of the customer dispute resolution scheme, incorporating all actions outlined in this Division.

Commented [VJ88]: Publish where? Website? Or a FAQ as discussed above? Is this to be part of the customer dispute resolution scheme?

electricity transmission company's response or actions;

- (d) inform *affected parties* in writing about their right to refer a *complaint* to a customer dispute resolution scheme approved by the *commission* in accordance with clause 11.1.1 of this Code of Practice if *affected parties* are not satisfied with an *electricity transmission company's* response in relation to the *complaint*; and
- (e) provide *affected parties* with the contact details for the relevant customer dispute resolution scheme approved by the *commission* in accordance with clause 11.1.1 of this Code of Practice.

11.1.3. For the avoidance of doubt, approval of a customer dispute resolution scheme for the purpose of clause 11.1.1 and the matters set out in clause 11.1.2 of this Code of Practice are for *complaints* or disputes that are related to land access, proposed land access or compliance with this Code of Practice, except where the *complaint* or dispute relates to land access that occurs under an *access agreement*.

Commented [VJ89]: See comments in 'Stakeholder Views and Feedback' document against questions 10 + 11

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.

Commented [VJ90]: See comments in 'Stakeholder Views and Feedback' document against Question 12.

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

- (a) keep a 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.

Commented [VJ91]: What happens if the written record of the verbal communications is in dispute?

13. Reporting

13.1. Reporting obligations

Commented [VJ92]: See comments in 'Stakeholder Views and Feedback' document against question 14

13.1.1. An *electricity transmission company* 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 information, the *electricity transmission company* must:

- (a) where only part of a document is claimed as containing confidential information,

clearly identify that part of 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 information redacted or removed in a manner that protects the confidential manner when published by the *commission*.

13.2. Requirement to provide monthly reports

13.2.1. An *electricity transmission company* that is developing a *new transmission project* or is undertaking *significant upgrades* on existing transmission projects must provide to the *commission* monthly reports containing the matters, and in the form and manner, required by this Code of Practice.

13.3. Timing of monthly reports

13.3.1. The report for a month must be provided to the commission by the [tenth] business day of the following month.

13.4. Format of monthly reports

13.4.1. A monthly report must be in writing and must comply with any format requirements notified by the *commission* to the *electricity transmission company* in writing.

13.4.2. The following requirements apply when preparing monthly reports:

- (a) Reporting on negotiations and entry into *access agreements* under clauses 13.5.1(a) and (b) of this Code of Practice only includes *access agreements* that have been entered into, or where negotiation has occurred subsequent to, the commencement date of this Code of Practice.
- (b) Reporting on the number of times land was accessed and *complaints* related to land access under clauses 13.5.1(d) and (e) of this Code of Practice includes land access under *access agreements* entered into prior to the commencement date of this Code of Practice.
- (c) Each day of land access and each parcel of land must be counted separately, even if multiple instances of land access are conducted pursuant to a single *notice of access*. Where there are multiple instances of access pursuant to a single *notice of access*, that must be identified.

13.5. Information to be contained in monthly reports

13.5.1. A monthly report must contain the following information in relation to activities related to land access for *new transmission projects* or *significant upgrades* on existing transmission projects undertaken by the *electricity transmission company* during the relevant month:

- (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 notices 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 Division 7 of this Code of Practice during the month;
- (e) the number of times land was accessed during the month, and in each instance:
 - (i) whether access was under an *access agreement* or section 93 of the *Act*;
 - (ii) whether each access was pursuant to a *notice of access* issued in accordance with clause 7 of this Code of Practice; and
the days between issuing a *notice of access* and access occurring.
- (f) 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 from the relevant customer dispute resolution scheme approved by the *commission* in accordance with clause 11.1.1 or other applicable external dispute resolution body;
 - (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.

13.5.2. Clause 13.5.1 only applies to an *electricity transmission company* that undertook any activities related to land access for *new transmission projects* or *significant upgrades* on existing transmission projects during the relevant month. If no land access activities were undertaken during the relevant month, an *electricity transmission company* that is developing a *new transmission project* or is undertaking *significant upgrades* on existing transmission projects must provide a monthly report reporting 'nil' for each of the items in paragraphs (a), (b), (c), (d), (e)(i) and (e)(ii) of clause 13.5.1.

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.

Commented [VJ93]: What is a breach?
What kind of actions might be needed to remedy the breach?
How is a breach identified?
Is it only the electricity transmission company that reports breaches?

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.

Commented [VJ94]: See comments above
Also see comments in 'Stakeholder Views and Feedback' document

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*.

PART 2: Obligations prior to accessing land	Communication and engagement: 5.1.1; 5.1.2; 5.2.1; 5.3.1; 5.3.2; 5.4.1; 5.4.2; 5.4.3; 5.4.4 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; 7.2.4; 7.3.1; 7.3.3; 7.3.4; 7.4.2
PART 3: Obligations during land access under section 93	Requirements when accessing land: 9.1.1; 9.2.1; 9.3.1; 9.4.1; 9.5.1; 9.5.2
PART 4: Dispute resolution, record keeping and reporting	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

SCHEDULE 2: Reporting obligations for breaches

1. This Schedule sets out *electricity transmission companies* compliance reporting obligations for breaches and potential breaches, as summarised in Table 1 below.

Commented [VJ95]: What is a breach or potential breach? How are they determined?

Table 1 Summary of *electricity transmission company* reporting obligations

Reporting obligation	Frequency	Timing
Any breach	As required	Within 30 calendar days of detection
Annual report	Annually	For the period 1 July to 30 June – on or before 31 August

2. If an *electricity transmission company* submits an incomplete report because the investigation is ongoing, the company must provide a complete report within 20 *business days* from the date it was originally reported to the *commission*.
3. A breach is detected where an *electricity transmission company* has reasonable grounds to believe a reportable situation has arisen. That is, a company knows of facts or has sufficient evidence to consider that a breach has occurred.

Commented [VJ96]: What compels a company to report a breach on themselves?

Annual report

4. A report containing a summary of all breaches identified during the period must be submitted annually.
5. A report for the purpose of clause 4, must be signed by the CEO, Managing Director or equivalent of the *electricity transmission company*.
6. *Electricity transmission companies* must submit a nil compliance report in instances where there are no breaches to report for a relevant annual reporting period.

Form and content of breach reports

7. All 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.