

# ENVIRONMENTAL IMPACTS

Consultation on draft Hydrogen and  
Renewable Energy Regulations

Information sheet

*Hydrogen and Renewable Energy Act 2023*



## Introduction

The [Hydrogen and Renewable Energy Act 2023](#) (HRE Act) and regulations will facilitate and regulate hydrogen and renewable energy development in South Australia and its coastal waters. The regulations are in addition to the HRE Act's requirements so should be read in conjunction with the HRE Act.

This information sheet outlines proposed regulations for managing environmental impacts. The HRE Act aims to ensure authorised operations have as little negative impact on the environment, local area and people as reasonably possible. It aims to eliminate long-term environmental damage and ensure proper land rehabilitation after operations.

## Providing feedback

You are invited to provide feedback on any of the proposed regulatory matters contained in these documents. You can make submissions on [YourSay](#) or by emailing [HRE@sa.gov.au](mailto:HRE@sa.gov.au). Submissions close on 15 April 2024.

## Environmental impact licence requirements

The HRE Act requires four key documents in the environmental assessment and operational phases of licence activities:

- Statement of environmental objectives (SEO)
- Environmental impact report (EIR)
- Consultation plan (CP)
- Operational management plan (OMP).

A scoping report (SR) may also be required in certain circumstances. The following information requirements are proposed for these documents.

## Environmental impact assessment criteria

Section 60 of the HRE Act requires the Minister to determine criteria for assessing the environmental impact of authorised operations. These are known as environmental impact assessment (EIA) criteria.

Before deciding on or reviewing EIA criteria, the Minister must consult with prescribed people or agencies.

Regulation 29 proposes that this must include the:

- Minister responsible for administration of a prescribed Act including the:
  - [Aboriginal Heritage Act 1988](#)

- [Aquaculture Act 2001](#)
- [Environment Protection Act 1993](#)
- [Landscape South Australia Act 2019](#)
- [Mining Act 1971](#)
- [Petroleum and Geothermal Energy Act 2000](#)
- [Planning, Development and Infrastructure Act 2016](#)
- Environment Protection Authority.

Regulation 29 also proposes that the Minister should aim to review the EIA criteria at least once every five years.

## Environmental impact report

Section 62 requires that the Minister must not grant a licence unless an approved statement of environmental objectives for the proposed authorised operations is in force. These are created based on the information contained in an environmental impact report.

Regulation 30 proposes that an environmental impact report will require:

- a description and location of the proposed authorised operations
- the environmental features and existing land use likely to be affected by the activities
- an assessment of the cultural values of Aboriginal and Torres Strait Islander persons and other persons that could be affected by the activities
- the public health and safety risks of the operations
- if relevant and required by the Minister, an assessment of the continuity of renewable energy or hydrogen supply
- a description of reasonably foreseeable environmental threats covering:
  - construction, operations and decommissioning stages
  - atypical events such as human error, equipment failure or emissions, or uncontrolled releases of substances above normal operating levels
  - how often these threats may occur and an explanation for this prediction
  - an assessment of the potential environmental consequences of these threats, including:
    - the extent to which they can be managed or prevented
    - anticipated size, scope and duration of the consequences
    - control strategies for addressing and managing the consequence
    - the cumulative effects (if any) of these consequences when considered alongside the consequences of other potential events on the land
    - the basis for predicting these consequences

- information about consultation done as part of an approved consultation plan, including specific details about relevant issues raised and the applicant's responses to those issues (not including confidential information).

The Minister has discretion to require other information or materials to assist in assessing potential events and consequences that may arise from authorised operations.

It is proposed that information or material provided under this regulation must:

- be balanced, objective and concise
- state any limitations that apply, or should apply, to the use of the information and material
- logically present sufficient information for the assessor to make an informed decision on the level of environmental impact of particular operations, without the need to request further information or technical advice
- identify where there is a significant lack of relevant information or degree of uncertainty
- identify any assumptions, how sensitive they are to change and any significant risks if an assumption is incorrect
- be in a form determined by the Minister and accompanied by evidence determined by the Minister.

The information must be verified and signed by a person who has reviewed its accuracy.

The environmental impact report will be made publicly available.

## Consultation

Section 61(4) of the HRE Act requires consultation on a proposed environmental impact report. Regulation 30(5) proposes that the applicant must present a consultation plan for approval that:

- includes a list of all identified relevant landowners, traditional owners under the *Aboriginal Heritage Act 1988*, and affected government agencies
- describes the proposed method of engagement and how the licensee intends to respond to relevant issues raised during consultation
- focuses the engagement on the environmental objectives and assessment criteria necessary to demonstrate that any potential consequences of authorised operations will be adequately managed and controlled
- identifies all relevant parts of the environmental impact report that will be consulted on
- allows public submissions in relation to the report, if required by the Minister.

## Statement of environmental objectives

Section 62 of the HRE Act requires that the Minister cannot grant a licence unless a proposed statement of environmental objectives (SEO), addressing the matters contained in the environmental impact report, has been approved.

The SEO sets out the operation's environmental objectives, leading performance criteria and a rehabilitation plan. It also details what incidents must be reported and those that are immediately reportable.

Regulation 31 proposes to specify that the draft SEO submitted for approval must:

- identify the events that could arise from the proposed authorised operations and could (if not properly managed or avoided) cause reportable and immediately reportable incidents
- include objectives for both construction and operational activities
- deal with the environmental consequences of those activities.

The criteria for demonstrating achievement of environmental objectives, which must be contained in the SEO, must include:

- what will be measured/monitored, and the frequency, form and location of the measurements (or how those locations will be determined)
- any background/control data to be used and how it will be acquired
- details of what constitutes outcome achievement, allowing for inherent measurement errors
- if required by the Minister, a plan for regularly assessing the ongoing fitness of facilities, plant, equipment, machinery, infrastructure and management systems
- if relevant, how and when information will be gathered and management system audits completed.

Criteria must be expressed in quantitative terms wherever possible.

SEOs must:

- be balanced, objective and concise, stating any limitations that apply, or should apply, to use of the information
- identify any matters where there is a significant lack of information or uncertainty
- identify any assumptions, their sensitivity to change and risks associated with incorrect assumptions
- comply with Ministerial requirements for presentation and supporting evidence.

## Consultation

Section 63(3) of the HRE Act requires the applicant to consult on the proposed SEO.

Regulation 32 proposes that the licensee must prepare a consultation plan that:

- includes a list of all relevant identified landowners, traditional owners under the *Aboriginal Heritage Act 1988*, and affected government agencies
- indicates the consultation start date, proposed method of engagement and how the licensee intends to respond to relevant issues raised during consultation
- focuses the engagement on the environmental objectives and assessment criteria necessary to demonstrate that any potential consequences of authorised operations will be adequately managed and controlled
- identifies all relevant parts of the environmental impact report that will be consulted on
- complies with any other Ministerial requirement.

After consultation, the licensee must prepare a consultation report setting out:

- who was consulted
- any issues raised
- any steps taken or proposed to address those concerns.

## Review

Section 64 of the HRE Act requires a SEO to be reviewed if directed by the Minister, or otherwise as required by the regulations. Regulation 33 proposes that the SEO must be reviewed at least every five years. The review must address the following matters and their development since the SEO was approved or last reviewed:

- any changes in information or knowledge about the relevant licence area
- community expectations on environmental issues
- changes in land use
- changes in operational practices
- any other matters the Minister considers relevant.

If, as a result of a review, the Minister considers that an SEO should be revised, the Minister must notify the licensee of the revisions. The licensee must then submit a revised SEO for approval.

## Operational management plan

Section 66 of the HRE Act provides that a licence holder cannot commence authorised operations unless an operational management plan (OMP) has been approved by the Minister. The OMP specifies the proposed operations, includes the SEO, and indicates proposed systems and controls for managing operations to ensure compliance with the SEO.

Regulation 34 proposes that, in addition to these requirements, an OMP must include:

- the start date of the operations

- the licensee's corporate policies that support achievement of regulatory requirements
- resources to effectively implement the OMP
- recognised industry practices and procedures that will be applied in undertaking authorised operations and to achieve regulatory compliance
- processes for managing physical, operational, procedural or organisational changes
- risk management systems, including controls to eliminate or reduce risks associated with authorised operations
- competency training, induction and supervision practices and procedures for employees, contractors and visitors
- consultation and communication mechanisms with external parties
- systems to identify, investigate and report incidents
- emergency practices and procedures
- systems that monitor, evaluate, audit and review management system effectiveness, including performance of controls
- any other relevant matters determined by the Minister.

It is proposed that an approved safety, reliability, maintenance and technical management plan under the [Electricity Act 1996](#) for the authorised operations will be deemed to form part of the OMP (to the extent the plan complies with the requirements of the HRE Act and regulation 34).

## Scoping report

Section 70 of the HRE Act establishes a scoping scheme that is designed to provide proponents with an opportunity to work with the government to get an early, greater understanding of government and community expectations as to the project's scope and necessary level of environmental assessment. It aims to provide greater certainty for all parties on timelines, approval pathways and technical assessments. Scoping is voluntary but may be required by the Minister.

Regulation 35 proposes that scoping will be available for a hydrogen generation licence, renewable energy infrastructure licence, associated infrastructure licence, and special enterprise licence.

Section 71 of the HRE Act outlines requirements for a scoping report to be provided by the licence holder, including consultation. Regulation 35(2) proposes that the licence holder must prepare a consultation plan which must:

- include a list of all relevant identified landowners, traditional owners under the *Aboriginal Heritage Act 1988*, and affected government agencies
- indicate the consultation start date, proposed method of engagement and how the licensee intends to respond to relevant issues raised during consultation

- focus the engagement on the environmental objectives and assessment criteria necessary to demonstrate that any potential consequences of authorised operations will be adequately managed and controlled
- identify relevant parts of the environmental impact report or SEO that will be consulted upon
- comply with any other Ministerial requirement.

After consultation, the licensee must prepare a consultation report setting out:

- who was consulted
- any issues raised
- any steps taken or proposed to address those concerns.

## Consultation by Minister

Section 72 of the HRE Act requires the Minister to hold a public consultation process on all environmental impact reports, SEOs (or revised SEOs) and scoping reports.

Regulation 36 proposes to require that, as soon as possible after receiving the above documents, the Minister must notify the relevant owners of land and council within the licence area (or if any part of the licence area falls outside a council area, the Outback Communities Authority).

In addition, before approving or rejecting a SEO (or revised SEO), it is proposed that the Minister must publish a notice:

- describing the licence area to which the SEO relates
- inviting written submissions on the statement within a specified period.

At the conclusion of these consultation processes, the Minister must provide copies of all submissions to the applicant and may require the applicant to prepare a report addressing any matters raised during consultation.

Neither the submissions nor responses can be made on a confidential basis.

The Minister does not have to publish a notice if the Minister decides to reject the proposed SEO (or revised SEO) without inviting submissions on the application.

## Referral of matter to prescribed body

Section 73 of the HRE Act requires referral of environmental impact reports, SEOs (or revised SEOs) and scoping reports to certain prescribed bodies for their input, before they can be approved by the Minister.



Regulation 37 proposes a period of 30 business days (from the day on which the referral is made) for prescribed bodies to submit written responses to the Minister, or such longer time period specified by the Minister.

In addition to those bodies set out in section 73(10) of the HRE Act, regulation 37 also prescribes the following bodies:

- the Minister to whom the administration of a prescribed Act is committed
- Coast Protection Board under the [Coast Protection Act 1972](#)
- Technical Regulator under the [Electricity Act 1996](#)
- Environment Protection Authority under the [Environment Protection Act 1993](#)
- South Australian Country Fire Service under the [Fire and Emergency Services Act 2005](#)
- Commissioner of Highways under the [Highways Act 1926](#)
- regional landscape board under the [Landscape South Australia Act 2019](#) responsible for the area to which the relevant report or statement relates
- Native Vegetation Council under the [Native Vegetation Act 1991](#)
- Pastoral Board under the [Pastoral Land Management and Conservation Act 1989](#).

This regulation proposes that a 'prescribed Act' means:

- [Aboriginal Heritage Act 1988](#)
- [Environment Protection Act 1993](#)
- [Harbors and Navigation Act 1993](#)
- [Heritage Places Act 1993](#)
- [Historic Shipwrecks Act 1981](#)
- [Landscape South Australia Act 2019](#)
- [Mining Act 1971](#)
- [Offshore Minerals Act 2000](#)
- [Opal Mining Act 1995](#)
- [Petroleum \(Submerged Lands\) Act 1982](#)
- [Petroleum and Geothermal Energy Act 2000](#)
- [Planning, Development and Infrastructure Act 2016](#)
- [South Australian Public Health Act 2011](#)
- [River Murray Act 2003](#)
- [Work Health and Safety Act 2012](#)