



Government
of South Australia

Department for
Energy and Mining

Hydrogen and Renewable Energy Act

Issues paper

Open for consultation



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Introduction

The South Australian Government is making a once-in-a-generation investment to leverage our world leading renewable wind and solar resources and develop a green hydrogen industry. South Australia is in a strong position to become a global leader in clean, green hydrogen and minerals for 21st century economies.

As Australia seeks to achieve net zero carbon emissions by 2050, energy derived from renewable sources will need to produce about 40 times the total generation capacity of today's national electricity market to achieve net zero, including 1,900 gigawatts (GW) of solar and 174 GW of onshore and offshore wind capacity. Hydrogen is rapidly emerging as a pivotal green energy source capable of meeting the demands of local and international energy needs.

This transformation will result in significant changes in land use across South Australia. There is enormous interest from project proponents in setting up renewable energy projects on government-owned pastoral lands and state waters, which are also co-owned by Native Title groups.

The scale of proposed investment and development in South Australia requires consideration of our policies and frameworks to ensure we are providing the best outcomes for communities, environment, and business.

Development of a fit for purpose regulatory framework is a key opportunity for South Australia to establish a point of difference and competitive advantage, supporting the state to position itself as a global leader in renewable energy and green hydrogen development and regulation.

It also gives us an opportunity to 'raise the bar' on our approach and ensure we will only host those proponents willing to embrace coexistence with current land uses and deliver community and environmental benefits through their projects, in line with leading environment, social and governance requirements.

Our current regulatory frameworks are enabling a proponent-driven process and may result in fragmented development of the sector across the state. We need to shift to a system of orderly government-led development focussed on pursuing shared benefit for all South Australians.

Significant parts of our regulatory frameworks are functioning in the state's interest, including but not limited to, planning, conservation and safety legislation. It is proposed these Acts are retained in their current forms and connected into a 'one window to government' licensing framework to ensure appropriate regulation of the whole project life cycle, from feasibility to decommissioning and rehabilitation.

There are land tenure processes which are also functioning well, including on freehold land. However, the current land access process for pastoral land and state waters is causing confusion and driving unwanted outcomes.

Fresh consideration of the state's policies and frameworks is required to ensure that South Australia is in the driver's seat. The Department for Energy and Mining (DEM) is seeking your views on a proposal to establish a 'one window to government' legislative framework for large scale hydrogen and renewable energy projects in South Australia through the creation of a new **Hydrogen and Renewable Energy Act**.



The Hydrogen and Renewable Energy Act is proposed to include:

- A scale threshold to exempt small scale projects from the regulatory framework.
- Objects of legislation that place development in the context of net environmental benefit, environmentally sustainable practices and circular economy outcomes.
- Processes to enable the government to work together with Aboriginal people in the development of the sector.
- A pre-competitive process, focussed on pastoral land and state waters, to determine where we should host renewable energy projects, and where proponents will compete for licences and land tenure subject to transparent criteria.
- New licensing arrangements for projects across all land tenure types to enable regulation of the whole project life cycle, avoid land-banking activities and facilitate the capture of resource data.
- Granting of land tenure for projects on pastoral lands and state waters on a competitive basis, with other legislation to continue unamended but connected through a 'one window to government' approach.
- New financial assurance requirements to ensure land is rehabilitated and returned to pre-existing conditions.

- Full cost recovery for government services through appropriate licence fees and charges.
- Fit-for-purpose compliance and enforcement powers.
- Provisions that enable coexistence of land uses and support fair outcomes for owners of land, communities and other pre-existing land rights and uses.
- A mechanism to share the future benefit of the value associated with access to natural resources.

It is proposed the *Pastoral Land Management and Conservation Act 1989* (SA) will no longer regulate large scale renewable energy developments on pastoral land. Small scale developments that do not meet the threshold required for regulation under the Hydrogen and Renewable Energy Act will continue to be regulated under the Pastoral Land Management and Conservation Act.

No changes are proposed to other South Australian Acts, apart from minor administrative amendments to ensure the whole framework can operate effectively and efficiently. Powers under other Acts will continue to be exercised by the relevant Ministers and Statutory Authorities.

This paper proposes provisions that the Hydrogen and Renewable Energy Act should contain and which DEM is seeking public feedback on.

SOUTH AUSTRALIA'S RENEWABLE ENERGY JOURNEY SO FAR



South Australia has had early success in transitioning to **renewable energy over the past 16 years** and is now at **nearly 70%** variable renewable energy – **we are a leader in Australia** and a celebrated case study globally.



This clean energy transition is playing a significant role in the **government's climate change commitments** to **reduce greenhouse gas emissions** by **more than 50% by 2030** and **reach net zero emissions by 2050**.



Our state's variable energy resources – sun and wind – are among the **best in the world**, combined with significant land resources compared to key markets for **renewable energy products such as Europe, Japan and Korea**.

Aboriginal land

The next wave of renewable energy transformation in South Australia will largely occur on land under Native Title and will impact on Aboriginal people's interests, activities, and cultural and spiritual connections to their land.

Informed, early and ongoing participation of Aboriginal people is essential to achieving the development of a globally significant sustainable renewable energy and hydrogen sector in South Australia.

This transformation must deliver Aboriginal empowerment and greater self-determination, in line with the government's commitment to restart treaty negotiations and implement a state-based Voice to Parliament.

The South Australian government is committed to respectfully engaging and working with Native Title groups, recognising their status as co-existing landowners with the government and other traditional owners, to develop the proposed Hydrogen and Renewable Energy Act and support their ongoing participation in regulating the sector.

The government intends to work in partnership with Native Title groups that are ready and willing to host hydrogen and renewable energy projects on their land, and will work with other traditional owners to respect their rights and interests.

The government would also like to discuss the best ways to support Aboriginal people to participate and engage with project proponents on their terms through the *Native Title Act 1993* (Cth) and *Aboriginal Heritage Act 1988* (SA) agreement making processes, to derive benefits and opportunities determined by them.

Protection of the environment and natural resources

Renewable energy is a critical part of the pathway to urgently decarbonise the South Australian economy in response to climate change, however this does not mean it has little or no impact environmentally.

It is important that hydrogen and renewable energy development is regulated and conducted in a manner that delivers a net benefit to the environment, including minimising the impacts on the state's natural resources (e.g. parks, native vegetation, biodiversity, water). This is addressed in the proposed objects of the Hydrogen and Renewable Energy Act.

The proposed Act will not result in changes to South Australia's environmental and natural resources legislation, or the way in which it is administered. Responsible ministers and agencies will continue to exercise the powers as they currently exist. DEM will work collaboratively with the Department for the Environment and Water and other regulators to examine how the relevant Acts will function together to provide a streamlined 'one window to government' service for project proponents.

Access to any land proclaimed as a reserve under the *National Parks and Wildlife Act 1972* (SA) or wilderness protection area under the *Wilderness Protection Act 1992* (SA) or marine parks under the *Marine Parks Act 2007* (SA) will continue to be managed under existing frameworks provided for under those Acts. The proposed Act will not introduce a regulatory regime providing for access to parks and reserves.

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) will also continue to apply.



Multiple land use

South Australia is a pioneer of multiple and sequential land use outcomes, including our regional reserves and marine park systems and success in opening the Woomera Prohibited Area. For many of these differing land uses – including renewable energy and hydrogen – access to land is critical to South Australia’s long-term sustainability and international competitiveness.

Collaboration and shared commitment are key to unlocking the full potential of South Australia’s resources to deliver broad prosperity and manage associated impacts.

The pursuit of the renewable energy transformation in South Australia will align with the principles of the [South Australian Multiple Land Use Framework](#) to balance the interests of multiple stakeholders and build long-term wealth for the common good.

Renewable energy development opportunities are recognised to exist in some of the state’s most highly prospective mineral regions, and economically and culturally significant primary industries regions. The opportunity to provide land tenure and approval pathways for renewable energy development, whilst maintaining multiple land use frameworks for mineral exploration, pastoralism and primary industries will be vital to balancing interests and ensuring sufficient diversity in the state’s economy. Therefore, any legislation for renewable energy will need to address land access, compensation, and consultation requirements that capture broad stakeholder interests, including but not limited to primary industries, the mining and mineral exploration, maritime, defence and tourism sectors.

OPPORTUNITIES FROM A SOUTH AUSTRALIAN HYDROGEN SECTOR

The South Australian Government’s Hydrogen Jobs Plan seeks to establish a competitive and sustainable green hydrogen sector. This has potential to deliver significant benefits including:

Decarbonisation of the state’s economy, providing **South Australia with significant advantages in a net zero future.**

Significant contributions to energy security, reliability and climate change mitigation will be delivered.

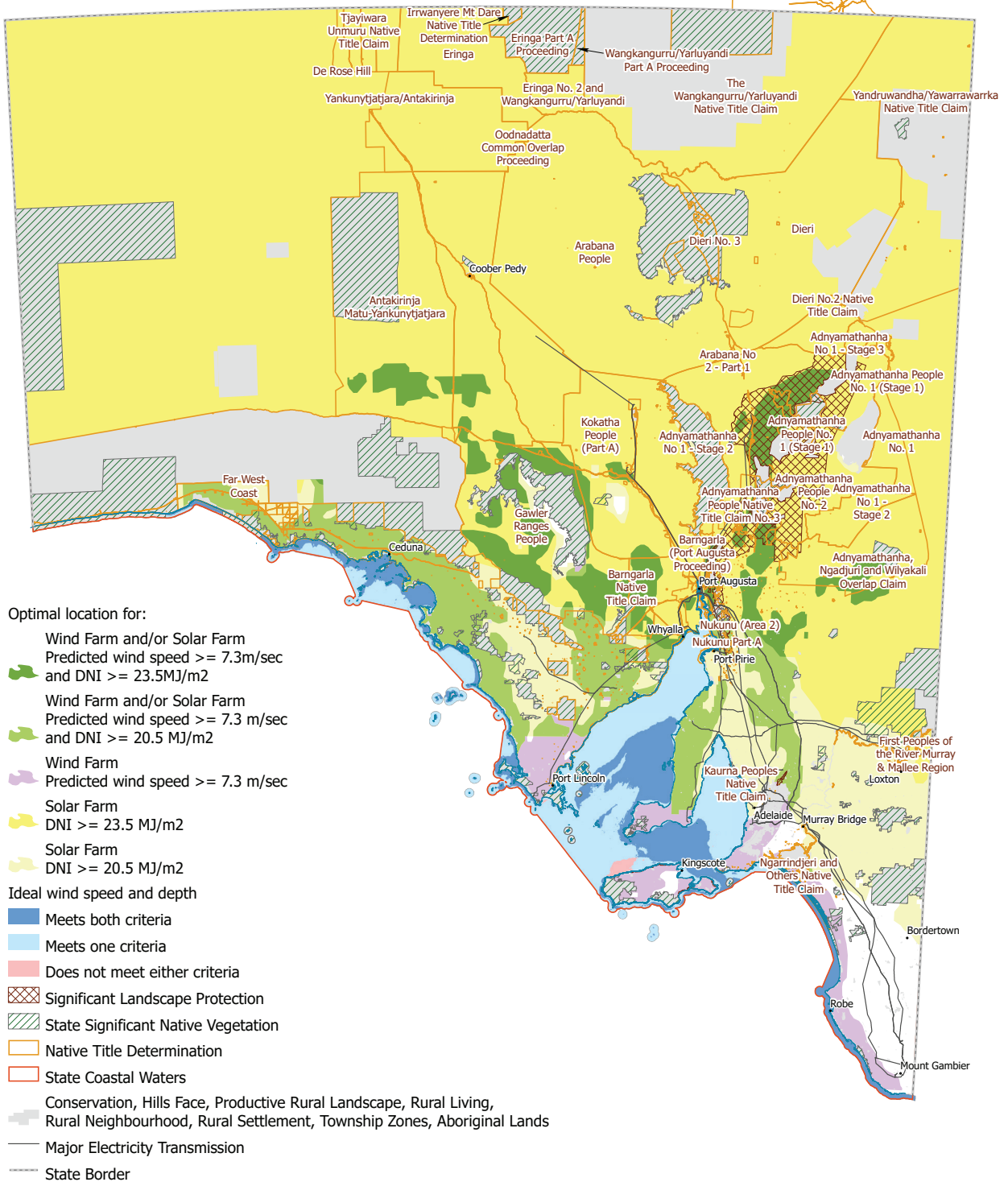
Lower electricity prices for business and industry.

Increased liveability in regional areas, as they can become major hubs and capture benefits from increased and changed employment opportunities.

Opportunities to **further decarbonise our state’s major sectors**, leveraging our highly desirable mineral resources to produce green metals and agricultural commodities.

Opportunities for the **development of new sectors and jobs**, including in advanced manufacturing and energy exports.

South Australia Renewable Energy Resources



Data Source:
Global Wind Atlas & Global Solar Atlas

A horizontal scale bar with a vertical tick mark at the left end labeled '0' and a vertical tick mark at the right end labeled '200'. Below the bar, the word 'Kms' is centered. There are 8 equal segments between the 0 and 200 marks, indicated by 9 vertical tick marks (including the endpoints).

205661-15/11/2022

An interactive version of this map is available at energymining.sa.gov.au/hydrogen-and-renewable-energy-act

South Australia's Renewable Energy Projects Pipeline

It is estimated there is nearly 100GW of economically developable wind and solar resources in South Australia, with \$19 bn and 14 GW of generation in the investment pipeline already.

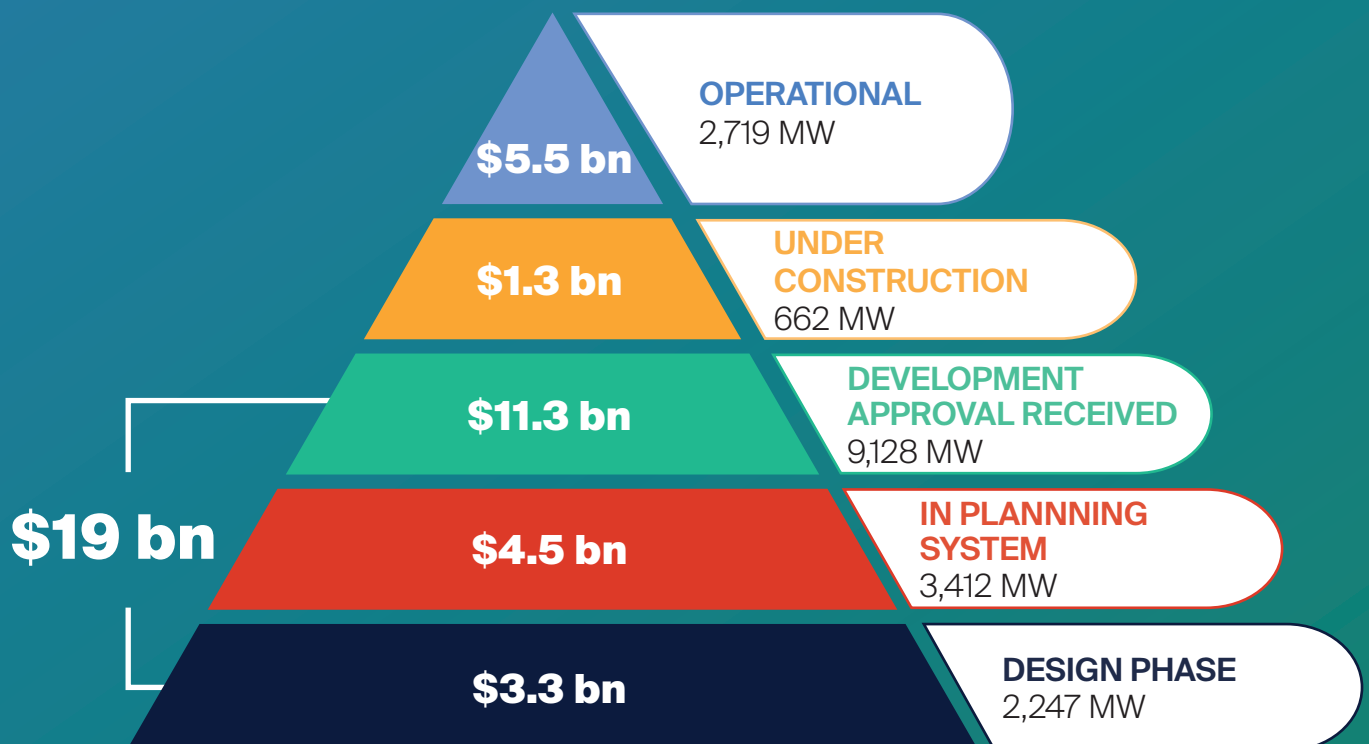
33
operational projects
2.6 GW
\$5.3 bn
SPENT

2
projects under construction
666 MW
\$1.3 bn

21
approved – 9.14 GW
\$12.6 bn

20
in planning and design – 5 GW
\$6.5 bn

DEM estimates there is a higher value of non-publicly announced projects at early design phase, including gigawatt-scale wind and solar projects proposed for the state's pastoral lands and state waters.



Current regulatory barriers to hydrogen and renewable energy projects

South Australia's planning, environmental and land access regulatory frameworks currently enable the development and operation of hydrogen and renewable energy projects. These frameworks have been utilised to enable the development of wind and solar farms, battery storage and hydrogen generation facilities, principally on freehold land.

As the state shifts towards a scale of renewable energy development which has not been seen before, with an accompanying shift in focus to pastoral land and state waters development, it is clear that existing frameworks will enable proponent-driven development to occur in a fragmented way and without an appropriate level of regulation across the project lifecycle. Currently, projects on pastoral land and state waters are being proposed on a first-come first-served basis. A shift to orderly government led development is required, where renewable energy development is planned and regulated in a manner that supports the delivery of state strategic priorities and the greatest benefits for all South Australians and the environment.

The limitations of the existing regulatory frameworks were confirmed by the South Australian Productivity Commission (SAPC) as part of its recent inquiry into South Australia's renewable energy competitiveness.

The government needs to have the right regulatory tools to make evidence-based decisions about where renewable energy development should be prioritised, in consultation with all relevant stakeholders, and to support leading practice operators to develop projects.

LACK OF COMPETITIVE PASTORAL LAND ACCESS

To date, South Australia has reached its high penetration of renewable energy via projects primarily located on freehold land in the state's mid-north. However, with the anticipated large scale expansion of renewable energy projects needed to feed South Australia's hydrogen sector ambitions, access to pastoral land will be essential.

Of the land available in the state, government-owned pastoral land represents the largest available resource, with high-quality wind and solar resources abundant across thousands of square kilometres of pastoral leases.

This land covers approximately 40% of the state and is managed by the government on behalf of the South Australian people for the benefit of the community.

A pastoral lease, issued under the Pastoral Land Management and Conservation Act, allows the occupation and use of pastoral land for the use of grazing and raising livestock. South Australia's pastoral rangelands are essential to the economy and the wellbeing of regional communities and provide regional jobs and support the growth of our red meat and wool industries. There are 323 pastoral leases in South Australia, with lessees' responsibilities including good land management practices, preventing land degradation, and endeavouring to improve the condition of the land.

While the Pastoral Land Management and Conservation Act has provided for the construction and operation of a wind farm on pastoral land



since 2015, the current regulatory pathway is not equipped to deal with the substantial hybrid projects (hydrogen, wind, solar, storage) now being proposed. The government has little ability to determine where it does and does not want projects to be developed.

Land access provisions in the Pastoral Land Management and Conservation Act also do not provide for a competitive tendering process for such licences, limiting the government's capacity to evaluate and in turn assign such rights that can serve the state's broader interests.

OFFSHORE (STATE WATERS) LAND ACCESS

In South Australian state waters, there are currently no offshore wind farms or renewable energy facilities. There are several proponents that are looking to develop projects in South Australian (state) and Australian (Commonwealth) waters. However, the state does not yet have a dedicated policy framework for assessing, licensing and regulating offshore wind developments.

The steps to develop renewable energy projects in state waters are very similar to projects proposed for onshore locations, while noting that there will be different impacts to be managed and stakeholders to engage with, including the aquaculture, fisheries and maritime industries.

LACK OF A LEAD AGENCY OR 'ONE-WINDOW-TO-GOVERNMENT' APPROACH

The broader end-to-end regulatory framework involves a number of Acts and Regulations, with different frameworks taking the lead at different points of the process.

The regulatory framework lacks a lead agency or 'one window to government' approach to streamline the process for project proponents, provide continuity of service and ensure South Australia is a desirable investment destination for large scale hydrogen and renewable energy projects.

South Australia continues to be recognised as an energy world leader for public policy and investment attractiveness, however the state of play is constantly changing, and policies and regulation must continuously adapt. Investors are asking for greater policy and regulatory certainty in new and emerging sectors.

Streamlining of land access and development application processes for significant projects is frequently raised by the energy sector as an area for improvement to reduce business costs.

DATA IS NOT COLLECTED BY THE STATE

There is currently no requirement for project proponents to provide data gathered during the feasibility stage of project development to the state government, meaning valuable data on wind and solar resources is not captured and does not benefit the state.

If a proponent conducts investigations and does not progress a project to development, there is potential for future developers to waste funds repeating data collection activities only to reach the same conclusion on the availability of a resource.

The *Petroleum and Geothermal Energy Act 2000* (SA) and the *Mining Act 1971* (SA) currently enable the collection and publication of data from licence holders, building the state's pre-competitive data resources and supporting further investment attraction by reducing barriers and costs to entry.

FEES, CHARGES AND BENEFIT SHARING

Current requirements for hydrogen and renewable energy project proponents to provide fees for service to the state government are insufficient.

With the anticipated increase in large-scale renewable energy development, costs to the state government will increase commensurately. Legislated provisions are currently unable to facilitate charging of licence fees that are consistent, transparent and accountable for government services and support the proper use of public resources.

A rent on the use of pastoral land for renewable energy projects should also be considered.

The benefits from a potentially significant hydrogen and renewable resources industry should be maximised for all South Australians.

INSUFFICIENT DECOMMISSIONING, REHABILITATION AND FINANCIAL ASSURANCE REQUIREMENTS

The Pastoral Land Management and Conservation Act and the *Planning, Development and Infrastructure Act 2016* (SA) do not provide a comprehensive framework for dealing with the closure of renewable energy facilities and rehabilitation of the associated land in line with environment, social and governance requirements.

The current frameworks lack leading practice decommissioning and rehabilitation provisions for large-scale renewable projects, commensurate with the requirements for other equivalent sectors, to minimise the impact of development on the environment and future generations while supporting multiple and sequential land use.

Other opportunities to further reduce environmental impacts and generate new economic opportunities through implementation of competitive criteria or licence conditions relating to recycling of infrastructure components (such as wind turbine blade recycling) are not being leveraged.

The state is currently exposed to greater risk, as the frameworks also lack requirements for financial assurance to be paid by licence holders, to protect the state from assuming post-operations rehabilitation or abandoned liabilities after the activities have ceased.

MULTIPLE LAND USE

To better support coexistence between land uses (multiple and sequential land use) and deliver fair outcomes for relevant parties, a regulatory framework needs to contain mechanisms that support:

- multiple uses of land, if appropriate, or sequential land use
- dealings between project proponents and owners of land, including Native Title
- dealings between project proponents and stakeholders with legal rights under other state legislation such as the Pastoral Land Management and Conservation Act, Mining Act, Petroleum and Geothermal Energy Act, *Harbors and Navigation Act 1993* (SA) and the *Aquaculture Act 2001* (SA).
- interactions with other land uses such as primary industries, commercial forestry, carbon farming, tourism, maritime, defence etc.



Hydrogen and Renewable Energy Act

The unprecedented scale of transformation and demand for access to pastoral land and state waters now requires a fit-for-purpose approach to enable the state to deliver outcomes to balance the interest of multiple stakeholders and build long-term prosperity for the benefit of all Aboriginal people, South Australians and the environment.

As a result, the Department for Energy and Mining (DEM) is consulting on the development of a 'one window to government' legislative framework to support the following outcomes:

- Maximise the benefits for all Aboriginal people, South Australians and the environment, whilst ensuring that any heritage, environmental, economic, public safety and social impacts associated with such developments are effectively addressed in line with environment, social and governance requirements.
- Work with proponents that seek to deliver multiple and sequential land use outcomes (including coexistence with Native Title, primary industries, mining, and petroleum).
- Expedite the development of the state's hydrogen sector and support delivery of the Hydrogen Jobs Plan.
- Deliver investment certainty and security and unlock the pipeline of renewable energy projects.
- Facilitate regulatory process certainty.

Scope of the proposed Hydrogen and Renewable Energy Act

In order to deliver the outcomes sought, a 'one window to government' regulatory framework for hydrogen and renewable energy project development is recommended to contain elements including:

- competitive tendering processes on pastoral land and state waters
- licensing or tenure appropriate to project development stages
- access to land and coexistence provisions
- funds for pastoral land management
- Native Title and Aboriginal heritage provisions
- landholder compensation, notice of entry and dispute resolution provisions
- input and engagement into and a co-ordinating function for environmental, social and economic impact assessment process under the Planning, Development and Infrastructure Act
- compliance and enforcement
- decommissioning, rehabilitation and financial assurance
- data submission and release provisions
- cost recovery for government services through appropriate licence fees and charges
- a mechanism to share the future benefit of the value associated with access to natural resources within a particular area of the state
- single point of contact and access to government for project proponents.

South Australia's 'one window to government' approach to regulation provides a central service point for industries recognised for their strategic and significant contribution to the state's present and future economy. With DEM as a first port of call, proponents are assisted in navigating the various regulatory licensing and approval processes under all relevant legislation, delivering improved efficiencies to such licensing and approvals.

A Hydrogen and Renewable Energy Act is proposed to licence and regulate the entire lifecycle of renewable energy projects and the generation of hydrogen, working in partnership with Native Title groups as coexisting landowners and other traditional owners.

The Hydrogen and Renewable Energy Act will maintain the government's commitment to multiple land use, continuing to recognise all other overlapping legal rights over the same land (for example, pastoral leases, mining tenements, primary industries leases and licences). It is proposed that the Hydrogen and Renewable Energy Act will contain land access provisions, including:

- notice of entry to landowners,
- compensation requirements for deprivation of use of that land by existing landowners as a result of Hydrogen and Renewable Energy Act activities. Landowners will be clearly defined in the Hydrogen and Renewable Energy Act including Traditional Owners with existing or impending Native Title rights over that land, pastoral lessees, freehold landowners, Mining Act tenement holders, Petroleum and Geothermal Energy Act licensees and any other party who has a statutory care, control or management of the land.
- formal dispute resolution mechanisms for licensees and landowners.

See **Appendix 1** for a diagram of the activities proposed to be licenced and regulated by the Hydrogen and Renewable Energy Act and relationship to other South Australian legislation.

PROPOSED CHANGES TO OTHER LEGISLATION

The Pastoral Land Management and Conservation Act (the Pastoral Act) is proposed to no longer regulate large scale renewable energy development on pastoral land. It would continue to regulate small scale developments that do not meet the threshold under the Hydrogen and Renewable Energy Act.

Under the new Act, the Minister administering the Pastoral Act and the Minister administering the Hydrogen and Renewable Energy Act, would jointly determine areas of pastoral land suitable for hydrogen and renewable energy development by identifying Renewable Energy Priority Areas.

At the feasibility licencing stage, activities relating to assessment would be subject to the Minister administering the Hydrogen and Renewable Energy Act considering the views of the Minister administering the Pastoral Act. At the infrastructure licencing stage, the Minister administering the Hydrogen and Renewable Energy Act would not grant the application without approval of the Minister administering the Pastoral Act. This mirrors the process for relevant ministers approving mining on multiple-use regional reserves under the National Parks and Wildlife Act 1972.

Where a project proponent is successful through a competitive tendering process, the new Act will require them to enter into access agreements with the pastoral lessee for access to land or infrastructure on the land, including compensation provisions and a court dispute resolution process.

Payments to the Pastoral Land Management Fund will be kept (amounts to be determined together with the Pastoral Land Management and Conservation Act Minister) to ensure ongoing conservation and improvement of the pastoral land.

DEM and the Department for Environment and Water will continue collaboration to fully understand and manage interactions between the Acts.



No other changes are proposed to other South Australian legislation, except minor administrative amendments to ensure the whole framework can operate effectively.

Powers under other Acts will continue to be exercised by the relevant Ministers and Statutory Authorities. Rather, the 'one window to government' approach will enable the government to deliver a more efficient service by connecting proponents with relevant authorities through a lead agency. This includes, but is not limited to, relevant licensing and approvals applicable in South Australia under the:

- *Native Title Act 1993*
- *Aboriginal Heritage Act 1988*
- *Planning, Development and Infrastructure Act 2016*
- *Work Health and Safety Act 2012*
- *Environment Protection Act 1993*
- *National Parks and Wildlife Act 1972*
- *Wilderness Protection Act 1992*
- *Landscapes South Australia Act 2019*
- *Native Vegetation Act 1991*
- *Electricity Act 1996*
- *Marine Parks Act 2007*
- *Harbors and Navigation Act 1993*

and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Land access that is currently regulated and facilitated under existing state legislation will not be affected by the proposed Hydrogen and Renewable Energy Act, including:

- any land proclaimed as a reserve under the National Parks and Wildlife Act or wilderness protection area under the Wilderness Protection Act or marine parks under the Marine Parks Act will continue to be managed under existing frameworks provided for under those Acts
- access constraints and provisions for any category of park and reserves under the National Parks and Wildlife Act
- access to Crown land managed under the *Crown Land Management Act 2009* (SA) will be facilitated through existing frameworks.

- access to state waters will be governed by relevant provisions under the Harbors and Navigation Act.

The grant of a license under the Hydrogen and Renewable Energy Act will not extinguish the future ability of explorers or miners to seek a tenement over that same land under the Mining Act or the Petroleum and Geothermal Energy Act.

In addition to the delivery of the Hydrogen and Renewable Energy Act, it is proposed to amend the *Gas Act 1997* (SA) to capture hydrogen under the definition of gas.

The Technical Regulator currently does not have the power under the Gas Act to regulate in relation to hydrogen distribution networks, hydrogen installations or for hydrogen gas at a power station. In the case of natural gas, the Technical Regulator has powers to monitor and regulate safety and technical standards applying to the gas distribution network and installations. This only applies, however, up to certain blends of hydrogen with natural gas.

The Essential Services Commission of South Australia (the Commission) also has the power to grant licences to operate gas distribution networks under the Gas Act. An amendment to the Gas Act to capture hydrogen under the definition of gas would enable the Commission to grant licences to operate gas distribution networks using pure hydrogen or higher concentrated blends of hydrogen.

With ongoing development of standards with respect to hydrogen and a renewable hydrogen-fuelled economy heralding higher concentrated blends, having the ability to apply and enforce Australian Standards for hydrogen (as they are developed) is vital to act to reduce barriers to deployment of higher concentrations of hydrogen (or pure hydrogen) in gas distribution and for use in power generation. Including hydrogen into the definition of gas in the Gas Act would provide a suitable solution to support further hydrogen development in the state.

LEADING REGULATION TO FACILITATE A HYDROGEN HUB AT PORT BONYTHON

Port Bonython is well positioned to become South Australia's first large-scale export terminal for green and blue hydrogen.

Located **16 km** from Whyalla in the **Upper Spencer Gulf**, **Port Bonython** has an existing deep-water export terminal,

1,700
hectares

of developable land, **world-class** wind and solar resources and gas reserves located nearby.

In **May 2021**, the **government** called for **Expressions of Interest** from companies and investors to develop the land around **Port Bonython** to create a **multi-user export precinct** and leverage the **state's renewable energy, fuels and minerals**.

7
shortlisted projects

have been selected with companies involved including AMP Energy, Fortescue Future Industries, H2U, Neoen/ENEOS Australia, Neoen/Chiyoda/Mitsubishi Australia, Origin Energy and Santos.

Both state and federal governments have committed

\$100
million

and industry a further **\$40** million

to developing common user infrastructure, such as upgrades to the port, common user last mile pipelines, storage and access roads.

The proposed projects at Port Bonython represent around a

\$13 billion

investment and could generate up to

\$1.8 million tonnes

of **hydrogen by 2030**.

The **proposed Hydrogen and Renewable Energy Act** is needed to ensure these projects are **licenced, developed and regulated** in a manner that appropriately manages risks and impacts, and delivers the greatest potential **benefit** to **South Australian communities** and the **environment**.



ISSUES FOR DISCUSSION

This section of the Issues Paper outlines a number of matters relating to the licencing and regulatory framework in the proposed Hydrogen and Renewable Energy Act and asks questions to help guide discussion and feedback.

ISSUE 1

Objects of the Act

The objects will explain the purpose of the Hydrogen and Renewable Energy Act and provide the context for reading the provisions of the Act.

It is intended the objects will ensure the large-scale renewable energy and hydrogen sector will deliver net benefits for communities, the environment and the economy, and will support the government to leverage further opportunities to continue South Australia's transition to a net zero future.

The proposed objects are to:

- create an effective, efficient and flexible licensing and regulatory framework for the feasibility, construction and maintenance of large scale renewable energy infrastructure
- create an effective, efficient and flexible licensing and regulatory framework for the construction, operation and maintenance of facilities for generating hydrogen
- encourage and maintain an appropriate level of competition for access to pastoral lands and state waters for renewable energy and hydrogen development
- partner with Aboriginal people to ensure the regulatory framework delivers net economic, environmental and social benefits to communities and minimises cultural, spiritual and heritage impacts
- facilitate a net environmental benefit from activities licenced under the Act, including promoting, as appropriate, practices to eliminate waste and restore biodiversity

- establish appropriate consultative processes involving all relevant government agencies and ministers in the establishment of suitable renewable energy areas and the licensing processes
- establish appropriate processes and mechanisms to facilitate multiple and sequential land use outcomes
- protect the public from risks inherent in the regulated activities under the Act
- support the achievement of:
 - the targets in Part 2 of the *Climate Change and Greenhouse Emissions Reduction Act 2007* (SA)
 - competitively priced and reliable renewable energy supply for South Australia
 - local employment and supply chain development through the South Australian Industry Participation Policy
 - economic development of a green hydrogen sector for South Australia, including exports
 - economic development of other strategically important net zero industries for South Australia.



Are the proposed objects considered suitable for the proposed regulatory and licencing framework under the Hydrogen and Renewable Energy Act?

Are there any important matters that have not yet been addressed in the proposed objects?

ISSUE 2

Renewable energy

The proposed Act will provide clear definitions and meaning on various critical terms to be used in the legislation. One such term is 'renewable energy' and the proposed definition is:

"Renewable energy is energy derived from a source that is not depleted when used."



Does the proposed definition adequately define renewable energy?

ISSUE 3

Renewable Energy Priority Areas (REPA)

For the purpose of competitive tender licensing provisions in the proposed Act, renewable energy priority areas are proposed to be jointly determined by the Minister administering the Act and the Minister administering the Pastoral Land Management and Conservation Act with a co-decision making role for the native titleholder. These areas would relate to government-owned land where clusters of large-scale renewable energy projects can be developed using economies of scale. This would focus on pastoral land and state waters.

The identification of these areas will be undertaken through a multi-criteria analysis process, including formal consultation requirements with co-regulators, traditional owners, landowners and impacted communities. Consultation will identify potential heritage, social, environmental and economic impacts, including benefits and risks, and provide an opportunity for stakeholders to share thoughts on what renewable energy development can mean for them.

Factors for consideration in identifying these areas will include:

- Native Title
- Aboriginal heritage
- current government policies and priorities pertaining to both existing land use over which the REPA is to be applied and also the government's renewable energy and hydrogen economy aspirations
- wind and solar resource data
- existing and required infrastructure including electricity and gas transmission, roads, port, water and other relevant infrastructure
- conservation land uses and threatened species management
- current economic land uses and rights to use land (including pastoral, mining, petroleum, agriculture, forestry, fisheries, maritime, tourism).

The intention would be for the relevant Ministers to identify and gazette REPAs for the purpose of the competitive tender licensing process under this Act.



Is the concept of utilising REPAs to identify and prioritise the locations for competitive land access tendering process for the granting of relevant renewable energy licences considered suitable?

What other factors should be considered in the identification of REPAs?

Who should be consulted during the REPA identification process and at what points?

ISSUE 4

Renewable energy projects

Renewable energy projects intended to be covered in the proposed Act will include energy generated from:

- wind
- solar
- wave energy
- biomass
- microalgae
- energy storage technologies
- all activities incidental to renewable energy generation, such as battery storage, associated facilities and infrastructure, other than those exempted as stipulated in the following section in this paper
- any other activity that generates renewable energy as defined by this Act.



What other forms of renewable energy should be covered in this Act?

ISSUE 5

What is not covered

The Hydrogen and Renewable Energy Act will not cover:

- electricity generation licensing regime under the Electricity Act, which is administered by the Essential Services Commission of South Australia
- renewable energy generation projects that may be exempted by the Minister administering the Act on a case by case basis. The Hydrogen and Renewable Energy Act is not intended to regulate smaller scale, localised renewable energy projects. Any exemption decision should have regard to the scale and size and

economic and strategic significance of any such project. For example, currently electricity generation facilities with a nameplate capacity less than five megawatts (MW) (such as those in outback remote towns like Cooper Pedy) are exempted from an electricity generation licence under the Electricity Act

- power transmission lines associated with the national and local electricity grids
- power stations
- transmission pipelines (already licenced under the Petroleum and Geothermal Energy Act), vehicle or any other form of transportation of hydrogen (including maritime vessels)
- renewable energy from geothermal sources as defined and licenced under the Petroleum and Geothermal Energy Act
- underground geological storage of hydrogen – this will be licenced under the Petroleum and Geothermal Energy Act.



What other renewable energy activities or resources should not be covered in this Act?

Should a minimum threshold be applied to electricity generated for renewable energy projects that would require licensing under the proposed Hydrogen and Renewable Energy Act? If so, what nameplate capacity in mega-watts electric (MWe) is appropriate?

Should any exemption for licensing under the Hydrogen and Renewable Energy Act be solely left to the discretion of the Minister administering the Act? If so, what should the Minister take into consideration when exercising such discretion?

ISSUE 6

Hydrogen generation

The hydrogen generation component of the proposed Act will incorporate the proposed amendments detailed in the Petroleum and Geothermal Energy Act 2000 Amendment Bill, which was publicly consulted on during June 2021 and tabled in Parliament on 25 August 2021. The relevant proposed amendments from that Bill are included here:

Definition

As extracted from the Bill for the purposes of this Act, generating hydrogen includes any operation or process by which hydrogen is generated, such as—

- a. Electrolysis; or
 - b. Steam methane reformation;
- but does not include—
- c. Operations for the recovery of hydrogen from the ground, licenced under the Petroleum and Geothermal Energy Act 2000; or
 - d. Operations or a process of a kind excluded from the ambit of this definition by the regulations to be established under the Hydrogen and Renewable Energy Act.

Incidental activities

Furthermore, a reference to a regulated activity for the generation of hydrogen includes all operations and activities reasonably necessary for, or incidental to, that activity such as (for example)—

- a. constructing, operating, maintaining, modifying or decommissioning a facility
- b. surface storage
- c. water treatment and disposal
- d. processing and converting of hydrogen into any form for the explicit purpose of transportation and/or distribution (such as ammonia or liquid organic hydrogen carriers such as methylcyclohexane).



Is this definition for hydrogen generation fit for purpose?

ISSUE 7

Hydrogen generation activities excluded from the Act

For the purposes of the proposed Hydrogen and Renewable Energy Act, hydrogen only generated for a prescribed commercial purpose will be included. This is to avoid the need to licence hydrogen generated at the domestic level or as part of research or pilot testing equipment or new technologies. To legislate this exclusion the following definition of a “prescribed commercial purpose” is proposed:

Generating hydrogen for a prescribed commercial purpose means generating hydrogen—

- a. for the purposes of export; or
- b. for use in manufacturing; or
- c. for wholesale distribution; or
- d. as part of a process of generating electricity for sale or supply to customers; or
- e. for any other purpose prescribed by the regulations for the purposes of this definition,

but does not include—

- f. generating hydrogen for the purpose of research or pilot testing; or
- g. generating hydrogen for a purpose excluded from the ambit of this definition by the regulations.



Is this inclusion and exclusion from the ambit of the proposed Act for hydrogen generation still fit for purpose?



LICENSING AND REGULATORY APPROVAL FRAMEWORK

It is proposed the licensing provisions will comprise three key licensing and approval stages and will apply to large scale hydrogen and renewable energy projects across all land tenure types. The licensing provisions will share similarities with well-established provisions of the Petroleum and Geothermal Energy Act and the Mining Act and will link to the existing planning assessment processes under the Planning, Development and Infrastructure Act. **Appendix 2** provides a high level overview of a proposed approvals process.

It is proposed the government will work with Native Title holders and other traditional owners to define the criteria for assessment and the terms and conditions that should apply to a licence.

Licensing (Stage 1)

A key purpose of licensing is to provide security of land tenure to enable proponents to proceed with commercialising projects with sufficient certainty to attract necessary investment. Therefore, the licensing provisions proposed for this Act will support the conferment of rights of access to, and use of, land specified in the relevant licences that are necessary for undertaking activities under the licence.

For freehold land, proponents will need to secure access to land through direct agreement with landowners.

Before a licence is granted under this Act, co-regulatory agencies will be consulted on the location, licenced activities and work program (if applicable) – with the role of each co-regulatory agency at this stage to be described in published administrative arrangements.

Licensing also ensures that the state has the opportunity to effectively and efficiently allocate rights in a manner that will maximise the benefits to the state, particularly where timely development of projects is prioritised, where demand exceeds that availability and where a variety of potential land uses may exist on the same area of land.

Licensing will also enable the Minister administering the Hydrogen and Renewable Energy Act to require financial assurance from proponents before the granting of a licence, to effectively manage the environmental impact and rehabilitation from activities undertaken in South Australia. Financial assurance and environmental management will be carried out via policy under the proposed Hydrogen and Renewable Energy Act.

In the case of wind energy resources, it is widely acknowledged that in South Australia major demand from proponents seeking to utilise this resource is concentrated around relatively confined zones within the state. Resolving this matter has called for an urgent need for a licensing regime such as that proposed in the following paragraphs.

ISSUE 8

Renewable Energy Feasibility Licence (REFL)

The primary purpose of a REFL is to provide access to relevant land to undertake approved testing and evaluation programs to establish an understanding of the relevant renewable energy resource, for example wind speed and intensity. A REFL will be granted:

- through a competitive acreage release process for pastoral land and state waters determined for areas within Renewable Energy Priority Areas (REPA) defined and gazetted by the relevant Ministers (see **Issue 3**)
- for a term determined by the Minister administering the Act. For example, under the Petroleum and Geothermal Energy Act, exploration licences are granted for a 15 year period with a mandatory surrender of a third of the remaining exploration licence area every 5 years excluding area that has been converted to either a retention licence of production licence. The term should be commensurate with the activities to be conducted but should be framed to prevent land banking and ensure projects progress to the next stage

- size of licence area – to be determined by the Minister administering the Act, subject to the characteristics and features of the REPA
- on the basis of work program and against published criteria determined by the Minister administering the Hydrogen and Renewable Energy Act and Minister administering the Pastoral Land Management and Conservation Act, which address:
 - maximising understanding of one or more renewable energy resource
 - technical and financial capacity of applicant, including operational capability
 - business model or plan of applicant and extent to which it serves the state's renewable energy economy objectives
 - Native Title
 - Aboriginal heritage and environmental matters
 - local economic benefit and Aboriginal procurement through an Industry Participation Plan under the *Industry Advocate Act 2017* (SA)
 - power supply agreements and offtake criteria, as applicable.
- after a fixed period, nominally 5 years under the Petroleum and Geothermal Energy Act for exploration licences as mentioned above, a portion of the REFL area will need to be surrendered and made available for re-release
- the REFL can be extended at the discretion of the Minister administering the Act at the end of the licence term. Any such decision will be premised on the licensee's performance against the approved work program or any of the selection criteria
- the REFL can also be cancelled by the Minister if the licensee fails to meet the work program or any of the selection criteria. Any such decision will be governed on principles of procedural fairness and due process.



Should such a licensing process only apply to Renewable Energy Priority Areas (REPAs), or should there be a provision to allow for such licences to be granted elsewhere outside REPAs?

Should the Hydrogen and Renewable Energy Act be more specific regarding the maximum size of REFL areas?

Should a specific minimum or maximum term for REFLs be specified in the Hydrogen and Renewable Energy Act, and if so how long?

Should such a term be subject to automatic renewal and/or extension and if so how should the licensee amend the conditions of the license based on technology and/or area?

Are the proposed selection criteria sufficient for the purpose of ensuring a competitive allocation of REFLs is achieved?

Are the above provisions for renewing and cancelling the REFLs appropriate for the purpose of ensuring that the natural renewable energy resource(s) within a relevant REPA will be effectively and efficiently developed?

Is there support for a fit for purpose financial assurance requirement at the licensing stage?



ISSUE 9

Renewable Energy Infrastructure Licence (REIL)

The primary purpose of a REIL is to provide necessary land tenure to construct, operate, maintain and undertake all incidental activities necessary for generating renewable energy (similar to production licences and mining tenements under the Petroleum and Geothermal Energy and Mining Acts). Components of a REIL:

- intended for commercial scale renewable energy projects
- automatic right for the holder of the Renewable Energy Feasibility Licence (REFL) over the same area to apply for a REIL subject to satisfying selection criteria determined by the Minister administering the Hydrogen and Renewable Energy Act and the Minister administering the Pastoral Land Management and Conservation Act
- grant of REIL will be based on the pre-requisite REFL including technology, design and commercial feasibility
- size of a REIL to be determined by the Minister
- 30-year terms with renewal provision by the Minister (to include construction, operations and decommissioning).
- Ministerial power to revoke a licence should the licensee prove not to be satisfying project milestones or objectives or any of the selection criteria.



Should the Hydrogen and Renewable Energy Act be more specific regarding the maximum size of REIL areas, or leave it to the Minister's discretion on a case-by-case basis?

Are the issues specified above, which the selection criteria must address, sufficient to ensure a competitive allocation of REILs is achieved?

Should a specific minimum term for REILs be stated in the Hydrogen and Renewable Energy Act, and if so, how long?

Should such a term be subject to automatic renewal or extension after the term expires?

Are the above provisions for renewing or extending and cancelling the REILs appropriate for ensuring that the renewable energy resource(s) within a relevant Renewable Energy Priority Area will be effectively and efficiently developed?

ISSUE 10

Hydrogen Generation Licence (HGL)

As per hydrogen generation provisions in the Petroleum and Geothermal Energy Act 2000 Amendment Bill tabled in Parliament last year, a HGL will authorise the licensee to –

- establish and operate a site, which must not exceed 5 km² in area, at a location specified in the licence for the purposes of generating hydrogen for a prescribed commercial purpose; and
- establish and operate facilities and systems associated with generating hydrogen for a prescribed commercial purpose; and
- undertake any other activities that may be associated with, relevant or incidental to, generating hydrogen for a prescribed commercial purpose.

A HGL will be granted for a term determined by the Minister administering the Act, who may –

- extend the term of a hydrogen generation licence from time to time; or
- cancel a hydrogen generation licence if the Minister considers that the licence is no longer being used for the purposes for which the licence was granted.

Furthermore, a HGL licensee will be required to acquire an interest in the land over which the HGL will apply. For example, an interest in land can take the form of an easement, land purchase or lease.



Should the maximum size of HGL area be greater than 5 km², or leave it to the Minister's discretion on a case-by-case basis to determine the size?

Should a minimum term be assigned to a HGL, or should it be left to the Minister's discretion as currently proposed?

ISSUE 11

Associated Activity Licence (AAL)

Licence to allow licensee to construct any facilities, any other infrastructure or undertake any activities which are related or incidental to the primary purpose of the above licence categories. For example, in the case of a Renewable Energy Infrastructure Licence (REIL), the construction, operation and maintenance of batteries to store the electricity should it not be possible to house such a facility within the REIL area.

Research and Demonstration Licence (pre-feasibility)

The described licence types are intended for large scale and commercial renewable energy and hydrogen generation projects. An additional licence type is proposed for research and development of renewable energy and hydrogen technologies. A Research and Demonstration Licence would:

- authorise research, testing and data collection for renewable energy technologies
- be granted through direct application, not a competitive process
- be granted for a fixed term with the possibility of extension
- be granted anywhere within the state and not limited to Renewable Energy Priority Areas and may overlap existing licences.



Is there a requirement or support for an Associated Activity Licence for renewable energy or hydrogen generation?

Is there a requirement or support for a Research and Demonstration Licence for renewable energy or hydrogen generation?

ISSUE 12

Environmental impact assessment process (Stage 2)

The second stage of the licensing and approval process requires the licensee to undertake an environmental and social impact assessment of its proposed activities under the relevant granted licence(s).

In the context of this proposed Act the definition of environment will include the natural, economic, social, cultural and visual amenities of an area or region.



Under the new regulatory framework, it is proposed the planning assessment and consent process under the Planning, Development and Infrastructure Act will continue to apply and it is proposed that the output of that process will feed into the Hydrogen and Renewable Energy Act approval and compliance requirements.

It is proposed that the Planning, Development and Infrastructure Act's environment assessment processes will engage the department responsible for administering the Hydrogen and Renewable Energy Act as a prescribed body for input and engagement. This will provide the Minister for the Hydrogen and Renewable Energy Act with an opportunity to proactively engage, comment and have input into the Planning, Development and Infrastructure Act assessment process and conditions of decision for all hydrogen and renewable energy projects.

The Planning, Development and Infrastructure Act process has successfully assessed previous renewable energy project applications and therefore it is not considered necessary to establish a separate standalone process under the proposed Hydrogen and Renewable Energy Act.

As detailed in **Appendix 2**, the key steps in the planning assessment process entail:

- lodgement of development applications
- for projects categorised as impact assessed development, a publicly conducted environmental impact statement process will be undertaken in accordance with practice directions prepared by the State Planning Commission. It is intended to include a requirement, either in the Planning, Development and Infrastructure Act or the proposed Hydrogen and Renewable Energy Act for the Commission to consult with the Minister or their department in the preparation of these practice directions
- for the purpose of the environmental assessment process, the department

responsible for administering the Hydrogen and Renewable Energy Act is intended to be a prescribed body pursuant to Section 122 of the Planning, Development and Infrastructure Act. As a result, the relevant department will actively engage in the assessment of applications under the Planning, Development and Infrastructure Act relevant to hydrogen generation and renewable energy project proposals

- any conditions of planning consent under the Planning, Development and Infrastructure Act will need to take into consideration any response from the Hydrogen and Renewable Energy Act prescribed body.



Are there any comments regarding the proposal to continue with the current environmental impact assessment process called for under the planning consent provisions of the Planning, Development and Infrastructure Act?

Are there circumstances where a different approach to environment impact assessment is required, for example precinct development? What could this approach look like?

ISSUE 13

On-ground activity approvals (Stage 3)

The final approval stage requires a licensee to apply to the Minister administering the Act for approval to commence on-ground activities.

The essence of the Stage 3 approval is for the licensee to demonstrate how the proposed on-ground activities will be deployed to ensure that the relevant planning consent conditions from Stage 2 will be achieved.

Stage 3 will also include how the licensee will engage and address any landowner concerns or interests. **Appendix 2** has a proposed approvals process.



Are there any comments regarding proposed activity notification process?

ISSUE 14

Land within a Renewable Energy Priority Area (REPA)

There will continue to be requirements for an applicant for a licence to enter into access agreements with the pastoral lessee, and the holder of a resources tenement (under the Mining Act or Petroleum and Geothermal Energy Act), including compensation provisions and a court dispute resolution process.

Under the framework, an owner of the land will be defined as any person who holds an interest, estate, licence, lease or tenement over the land, including Native Title. All owners of land will have rights under the Hydrogen and Renewable Energy Act including:

- notification before entry to land
- dispute resolution processes, with Ministerial powers for mediation and resolution, or for passing to Warden's Court or Environment, Resources and Development Court
- compensation for deprivation, impairment, damage or consequential loss of use of the land.

Furthermore, the following criteria are proposed to be included in the Hydrogen and Renewable Energy Act to determine compensation, Ministerial mediation and for the court to determine whether operations can proceed:

- deprivation or impairment of the use and enjoyment of the land
- damage to the land (not including damage that has been made good by the licensee)
- damage to, or disturbance of, any business or other activity lawfully conducted on the land
- consequential loss suffered or incurred by the owner on account of the licensee entering the land and carrying out regulated activities under the proposed Act.

The determination of the Renewable Energy Priority Areas (REPA) and the grant of a licence under the Hydrogen and Renewable Energy Act will not extinguish the future ability of explorers or miners to seek a tenement over that same land under the Mining or Petroleum and Geothermal Energy Acts.



Are there any changes or inclusions to the above provisions for entry to land within a REPA and Hydrogen and Renewable Energy Act landowner rights?

ISSUE 15

Freehold land

It is proposed that there will be no changes to the rights held by owners of freehold land as a result of the introduction of this proposed Act. Owners of freehold land will continue to determine access to the use of their land at their discretion, and any competition will be managed by the landowner and not the state.

The Hydrogen and Renewable Energy Act will require a proponent who applies for a licence (REFL, REIL and HGL) over freehold land to acquire an interest in that land, either by purchasing the land or by access agreement with the freehold landowner. Licences over freehold land will still be required to provide notice of entry to the freehold landowner and any other defined owners of the land as relevant.



Is it agreed that rights of freehold landowners are preserved for access to their land as above?

How could traditional owners benefit from development on freehold land?

ISSUE 16

Native Title

Court determinations have confirmed the existence of Native Title in relation to most pastoral land in South Australia. The 'future act' regime in the Native Title Act will apply to any future activity or dealing, such as the grant of a licence or other right, that affects Native Title.

It is understood that a Native Title agreement in the form of an Indigenous Land Use Agreement between the Native Title party, government and the company will apply.

The government intends to work with Native Title groups through all stages in developing the Hydrogen and Renewable Energy Act and would like to develop mechanisms to enable this to continue through the implementation of the regulatory framework.

This means working with Native Title groups who are interested in 'hosting' a Renewable Energy Priority Area (REPA) on their land, partnering to identify what the REPA looks like and the associated criteria and terms and conditions, and who are willing to pursue an agreement with the project proponents that have been successful through a competitive process.

The government is committed to working with Native Title groups and traditional owners to develop this sector, as started through South Australian Aboriginal Renewable Energy Forum on 7 and 8 November 2022.



Are there Native Title groups that are interested in learning more about investigating a potential Renewable Energy Priority Area on their land?

Is there more information that Native Title groups and traditional owners would like to receive about the renewable energy and hydrogen sector? What information should be provided?

ISSUE 17

Data reporting

Renewable energy

It is proposed that resource data gathered under a Renewable Energy Feasibility Licence will be provided to the government and made publicly available following a period of time.

It is proposed that a licensee who generates renewable energy will be required to submit monthly reports to the state government of daily energy generation (such as mega-watt-hours, MWhr).

For wind farms, it is proposed to provide generation data and wind speed data for each wind turbine.

It is proposed that the state government will hold this data confidentially for six months before public release.

Hydrogen

It is proposed that a licensee who generates hydrogen be required to submit monthly reports to the state government of daily hydrogen generation volumes (such as kilograms).

It is proposed that the state government will hold this data confidentially for six months before public release.

Other technical reports

It is proposed that a licensee under the Hydrogen and Renewable Energy Act who prepares any other technical report in connection with an activity conducted under the licence furnish a copy of that report to the state government within two months. Non-interpretive analytical data and field survey data will be released publicly after a confidentiality period of two years.



Are the data types, data levels and submission timeframes suitable?

Are there any further data that should be reported to the state government?

Is a six-month confidentiality period before public release of reported data suitable?

ISSUE 18

Fees, charges and benefit sharing

Licence fees and charges

It is proposed that all licence holders under this Act are to pay appropriate licence fees and charges to recover the cost of services from the state government for the administration of the Hydrogen and Renewable Energy Act – including licensing and regulatory services and ongoing continuous improvement. Licence fees may also cover the services required from co-regulatory agencies for activities covered by the Hydrogen and Renewable Energy Act. Licence fees will be required annually and for individual transactions such as licence applications. Licence fee amounts will be prescribed, subject to consultation, in associated regulations that will follow if the Hydrogen and Renewable Energy Act commences.

Rent

It is proposed that an annual rent be payable to the Crown for renewable generation licences over government-owned land. A rent to the Crown is currently paid by pastoral lease holders under the Pastoral Land Management and Conservation Act, and this provision intends to fairly align both land uses. It is proposed that the rent be payable on the area of the land and considers the Valuer-General's determination of land value in accordance with the *Valuation of Land Act 1971* (SA). Rental amounts to be prescribed subject to consultation, in associated regulations or via policy that will follow if the Bill is passed.

From the annual rent, it is proposed that payments will be made to the Pastoral Land Management Fund (amounts to be determined in conjunction with the Pastoral Land Management and Conservation Act Minister) to ensure ongoing conservation and improvement of the pastoral land estate.

Through the SA Productivity Commission Inquiry into South Australia's renewable energy competitiveness, stakeholders have expressed concern that there is uncertainty about the potential implications for pastoral lease fees, and potential liability for other taxes and charges such as land tax and the Emergency Services Levy if a renewable energy development takes place on pastoral lands.

To understand the potential impact of renewable energy development on pastoral lessees, the government will work the Office of the Valuer-General to commission scenario modelling on the potential impacts of renewable energy projects on pastoral leases and associated liabilities arising from the application of land-use codes.



Benefit sharing

It is proposed to develop a mechanism to share the future benefit of the value associated with access to natural resources within a particular area of the state. It is proposed that the mechanism will only be implemented once the industry reaches an appropriate stage of maturity where it is capable of generating a sustainable income stream.

The mechanism will be prescribed, subject to consultation, in associated regulations or via policy that will follow if the Hydrogen and Renewable Energy Act commences.



Is there any concern regarding proposed cost recovery for government service via licence fees?

Is there any concern regarding proposed rent for renewable energy infrastructure licences on government-owned land?

What are the key principles that should underpin the development of a mechanism that equitably shares the benefit of the value associated with access to natural resources within a particular area of the state?

When should the mechanism be introduced and what represents an appropriate stage of industry maturity?

ISSUE 19

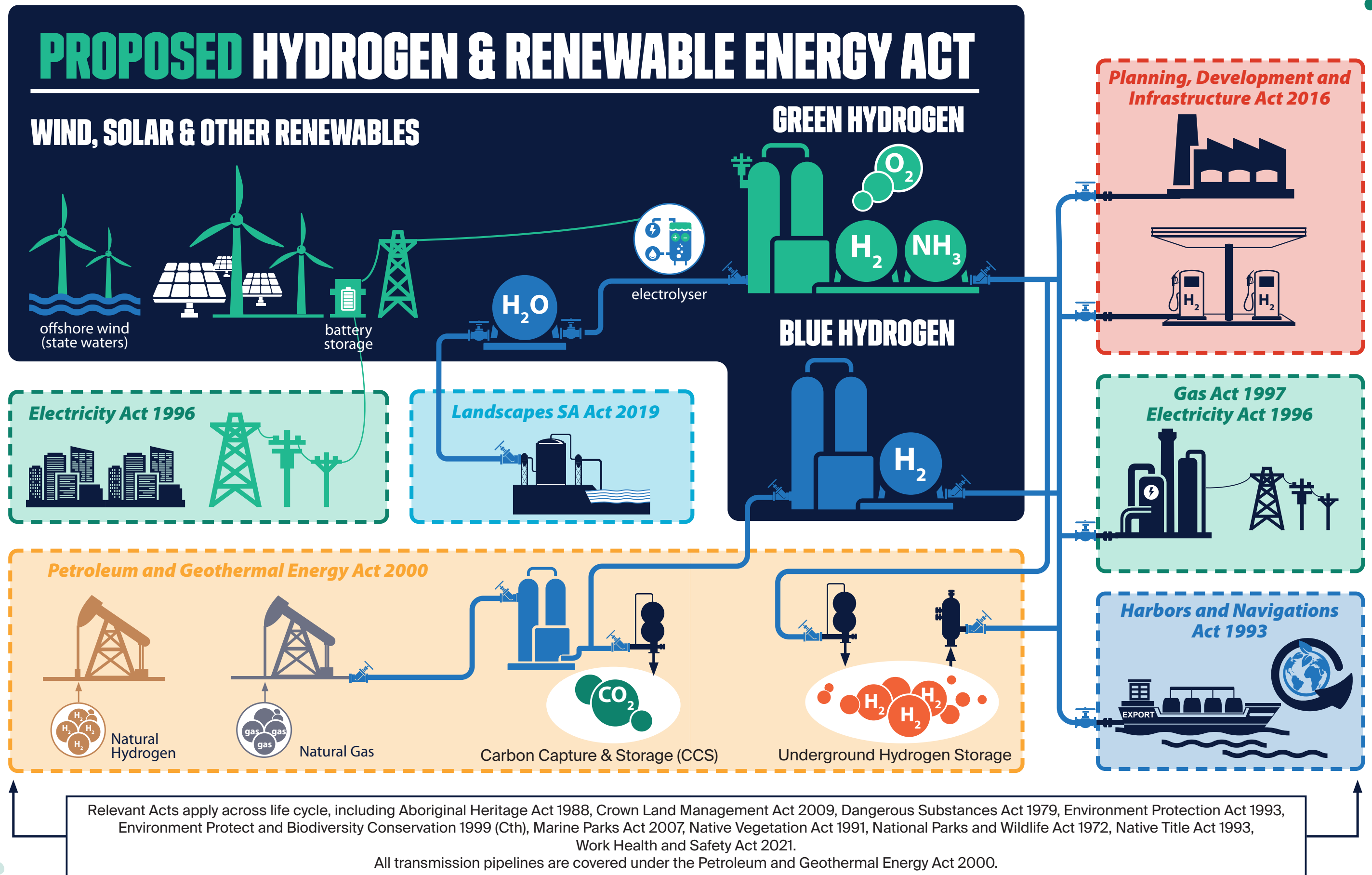
General provisions of the Act

As relevant, it is proposed that all existing general provisions for exploration and production licences as under the Mining and Petroleum and Geothermal Energy Acts will also apply to these licences, including:

- authorised officers under the proposed new Act and their powers
- investigations and enforcement
- reconsideration and review of administrative decisions under the Act, pertaining mainly to decisions to grant or not grant licences similar to Part 15 of the Petroleum and Geothermal Energy Act
- data and reporting requirements, including annual compliance reports, incident reports
- landowner rights to compensation
- landowner notifications and rights to object
- bond and security payment
- requirement for licensees to have adequate operational, technical and financial resources
- Ministerial approval requirements for registrable dealings under the various licences
- in the event of a licensee going bankrupt, the Crown has first right to any debt recovery
- consolidating powers of the Minister for multiple licences
- general requirements for operations (such as fitness-for-purpose assessments)
- Minister's power to carry out work
- surrender, suspension or cancellation of licence
- extension of timelines for the submission of data or activity notifications and reporting requirements etc.
- extension of term or reinstatement of licence
- notice of grant etc of licence
- interference with regulated activities
- safety net provisions.

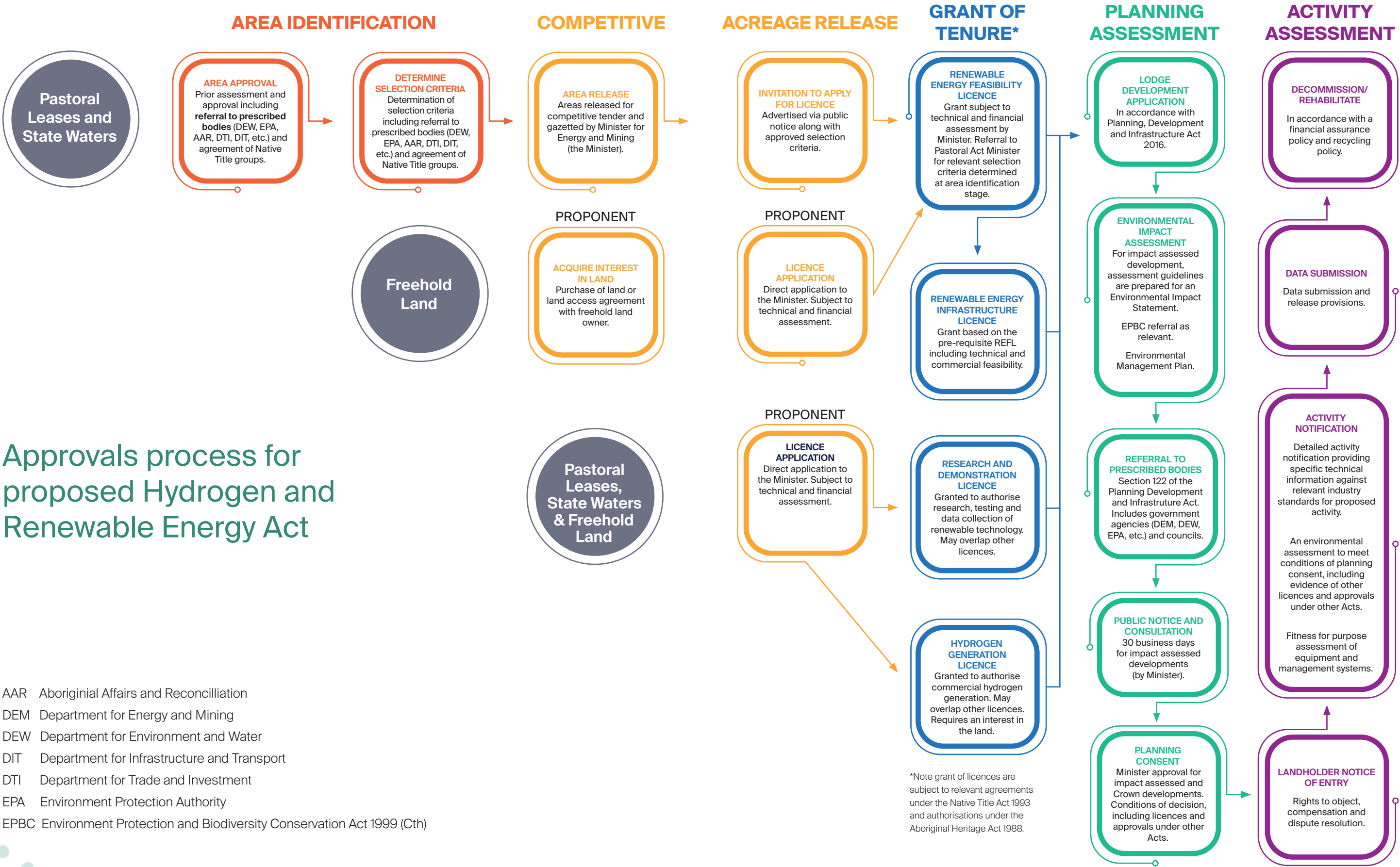


Are there any other general provisions that should be included?



26/09/2022-205652

Appendix 2



AAR Aboriginal Affairs and Reconciliation
DEM Department for Energy and Mining
DEW Department for Environment and Water
DIT Department for Infrastructure and Transport
DTI Department for Trade and Investment
EPA Environment Protection Authority
EPBC Environment Protection and Biodiversity Conservation Act 1999 (Cth)

“Our state’s renewable energy resources – sun and wind – are among the best in the world.”





Provide your feedback

To provide a submission:

- Visit yoursay.sa.gov.au/hre-act
- Post or email your feedback to:
Hydrogen and Renewable Energy Act Engagement
Department for Energy and Mining
GPO Box 320
Adelaide SA 5001
Email: DEM.Legislation@sa.gov.au

Register for updates

Stay informed on this project at energymining.sa.gov.au/hydrogen-and-renewable-energy-act



Scan for further information



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Government of South Australia
Department for Energy and Mining

Acknowledgment of Country

As guests here on Aboriginal land, we acknowledge everything this department does impacts on Aboriginal country, the sea, the sky, it's people and their spiritual and cultural connection which have existed since the first sunrise.

Our responsibility is to share our collective knowledge, recognise a difficult history, respect the relationships made over time, and create a stronger future.

We are ready to walk, learn and work together.