

Proposed transitional provisions for hydrogen and renewable energy projects after commencement of HRE Act.

Project scenario	Continued rights under PDI Act	HRE Act transitional provisions
Project approved under the PDI Act and now operating	<ul style="list-style-type: none"> Approval under PDI Act to remain lawful (grandfathered) and subject to conditions of consent. Rights to apply for extensions of time and variations under PDI Act for a 3-year period after HRE Act commencement. 	<ul style="list-style-type: none"> Submission of an Operational Management Plan under the HRE Act must occur within 6 months after HRE Act commencement (or within a time specified by the Minister). Grant of REIL or HGL licence, subject to DEM acceptance of the Operational Management Plan. The project has continued rights to operation until a determination on the plan is made by DEM. Waiver of HRE Act licence fees for a 3-year period after licence grant. No requirement for bond or security under the HRE Act.
Project approved under the PDI Act, but not operating	<ul style="list-style-type: none"> Approval under PDI Act to remain lawful (grandfathered) and subject to conditions of consent. Rights to apply for extensions of time and variations under PDI Act for a 3-year period after HRE Act commencement. 	<ul style="list-style-type: none"> Submission of an Operational Management Plan under the HRE Act must occur and be accepted by DEM before project operation begins. Grant of REIL or HGL licence, subject to DEM acceptance of the Operational Management Plan. Waiver of HRE Act licence fees for a 3-year period after licence grant. No requirement for bond or security under the HRE Act.
Development application lodged under the PDI Act, but not yet determined	<ul style="list-style-type: none"> Rights to continued assessment under the PDI Act. Approval under PDI Act (if received) to remain lawful and subject to conditions of consent. Rights to apply for extensions of time and variations under PDI Act for a 3-year period after HRE Act commencement. 	<ul style="list-style-type: none"> Submission of an Operational Management Plan under the HRE Act must occur and be accepted by DEM before project operation begins. Grant of REIL or HGL licence, subject to DEM acceptance of the Operational Management Plan. Waiver of HRE Act licence fees for a 3-year period after licence grant.
Project obtained (or seeking to obtain) Crown sponsorship, but development application under the PDI Act not yet lodged	<ul style="list-style-type: none"> To be assessed and licensed under the HRE Act. Where information has been prepared to satisfy PDI Act requirements, the information will be considered to satisfy HRE Act requirements. 	<ul style="list-style-type: none"> To be assessed and licensed under the HRE Act. The assessment pathway under the HRE Act is intended to be at least equivalent to a Crown development assessment pathway in terms of requirements, timeframes (expected to be shorter under the HRE Act) and consultation.

Note 1: Conditions of consent imposed under a PDI Act approval relating to project operation (including decommissioning) are to be reflected in an Operational Management Plan or equivalent plan submitted as part of the transitional requirements under the HRE Act. It is proposed that compliance assessment for these operational conditions will be undertaken by DEM under the HRE Act, while remaining conditions relating to planning and construction will continue to be assessed by DTI-PLUS under the PDI Act. An administrative arrangement between DEM and DTI-PLUS will clearly determine agency responsibilities in assessing compliance with the conditions of consent under the PDI Act to avoid any duplication.

Note 2: The proposed transitional provisions are a modified process compared to the licence application process under the HRE Act – i.e., common provisions for licence applications will not apply, instead the acceptance of an Operational Management Plan is the only requirement before REIL licence grant for projects captured by the proposed transitional provisions. Furthermore, the project operator will not be required to prepare new Statement of Environmental Objectives for the operations.

Note 3: An operational management plan, means a plan that satisfies requirements proposed in Section 53(2) of the HRE Act, to: specify the operations to be undertaken under the licence, specify how operations under the licence will be managed, including details of the management systems and controls, and contain any other information and comply with any other requirements as prescribed by the regulations. An existing ‘Safety, Reliability, Maintenance and Technical Management Plan’ under the *Electricity Act 1996* and ‘Operational Environmental Management Plan’ required by condition under a PDI Act approval will be considered by DEM to satisfy the operational management plan requirements under the HRE Act.

Note 4: As above, variations for projects approved under the PDI Act may be assessed under that Act up until 3 years after the commencement of the HRE Act. Variations under the PDI Act are limited to the scope of the original PDI Act approval and are subject to planning assessment by DTI-PLUS. Any variation beyond this scope after commencement of the HRE Act must be applied for under the HRE Act.

Note 5: As above, extensions of approvals for projects already approved under the PDI Act may be considered under that Act up until 3 years after the commencement of the HRE Act. Extension of time applications under the PDI Act are subject to assessment by DTI-PLUS and may consider project advancements that have occurred, changes to policy or legislation, the number of previous extension of time approvals, among other considerations on a case by case basis.

Note 6: Term of a REIL licence proposed in the updated HRE Bill to be 50 years.

Note 7: Licence fee amounts to be consulted on separately and prescribed in the HRE Regulations. A nominal fee is proposed that is only intended to cover the state government’s administration of the HRE Act.

Note 8: Battery energy storage systems (BESS) that are standalone will not require licensing under the HRE Act and hence are not subject to these transitional provisions.

DEM = Department for Energy and Mining

HRE Act = [Hydrogen and Renewable Energy Act \(proposed\)](#)

REIL = Renewable Energy Infrastructure Licence

HGL = Hydrogen Generation Licence

DTI-PLUS = Department for Trade and Investment, Planning and Land Use Services

PDI Act = [Planning, Development and Infrastructure Act 2016](#) (replacing the Development Act 1993)