

Approval pathways for standalone BESS – transitioning and new projects

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Introduction

All Battery energy storage systems (BESS) above 5MW nameplate capacity are required to be licensed under the *Hydrogen and Renewable Energy Act 2023* (HRE Act). This brochure provides an overview of the three licensing and approval pathways provided for under the HRE Act. The pathway followed will depend on whether the BESS was operating, under assessment or yet to seek development authorisation when the HRE Act commenced on 11 July 2024.

Refer to the following sections to determine which pathway applies to your circumstances and the key requirements under the HRE Act. Pathway 1 and 2 are modified approval pathways that recognise the assessment and approvals already obtained, exempted from or being obtained under the *Planning, Development and Infrastructure Act 2016* (PDI Act).

The three pathways are:

Pathway 1

Transitional - Standalone BESS existing operator

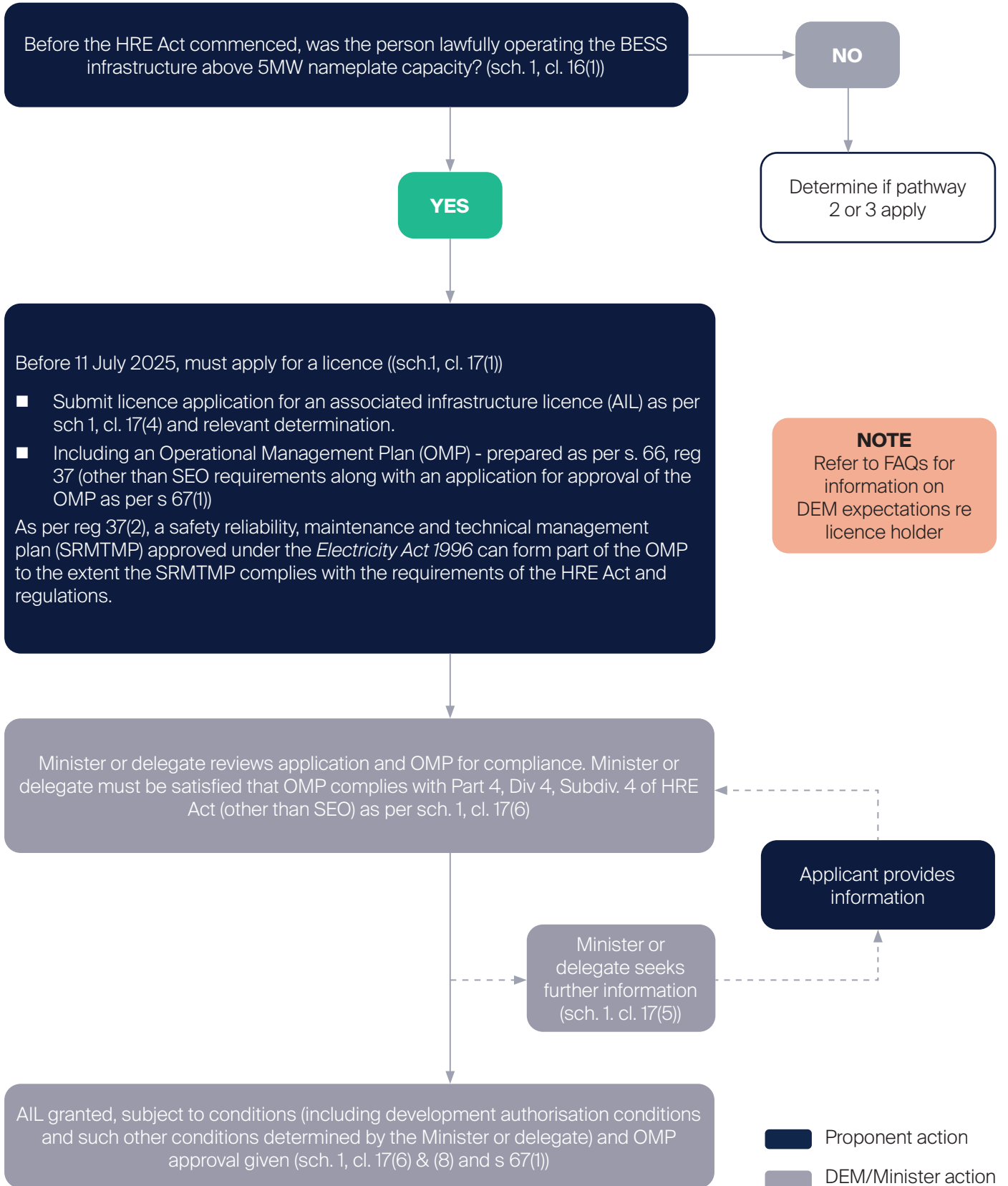
Pathway 2

Transitional - EOI BESS / approved BESS not operating

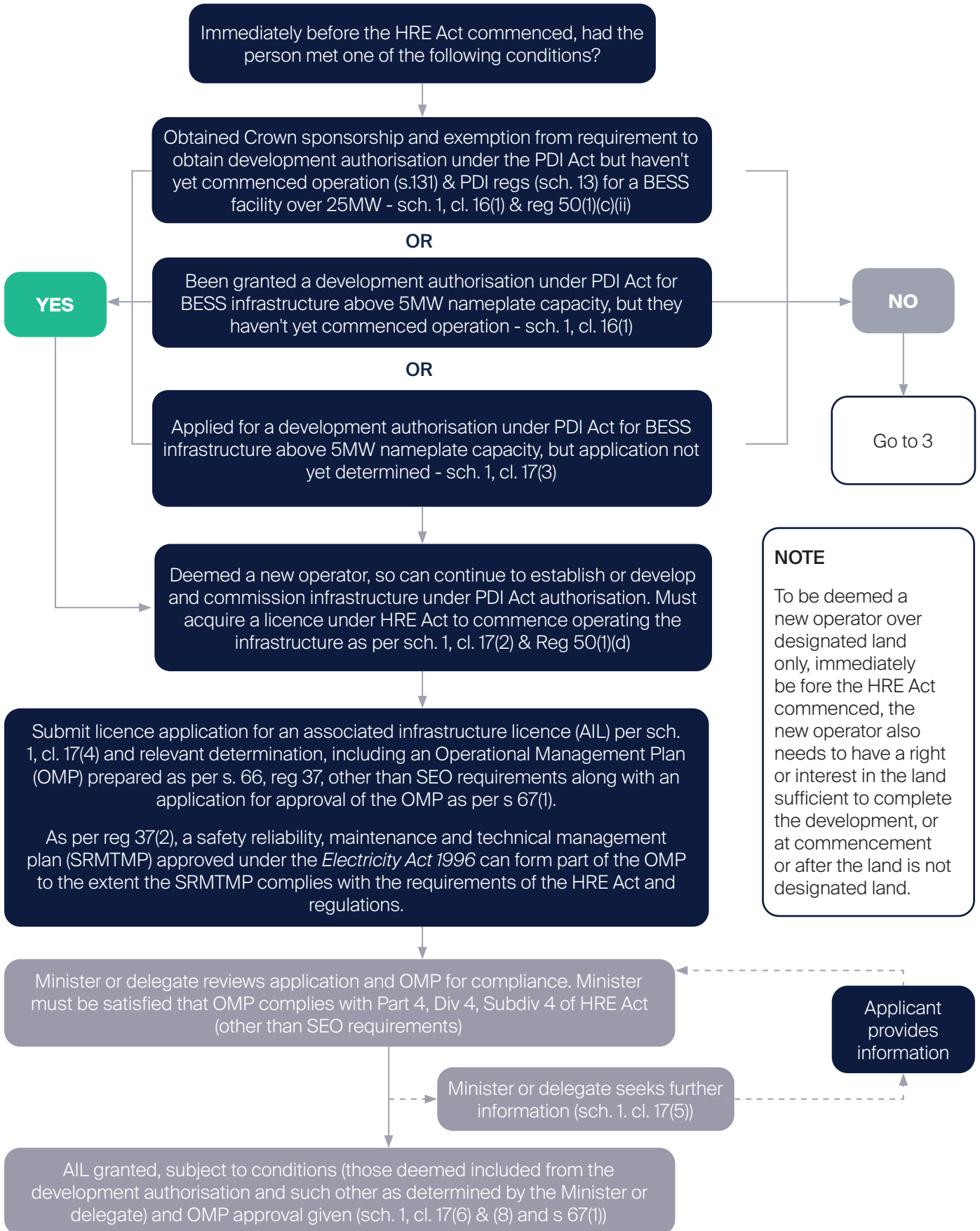
Pathway 3

New standalone BESS – assessment and approval HRE Act

Pathway 1 Transitional - Standalone BESS existing operator



Pathway 2 Transitional - EOI BESS / approved BESS not operating



Pathway 3 New standalone BESS - assessment and approval HRE Act

The licensing and approvals process for persons applying for a new standalone BESS over 5MW nameplate capacity will have the following key requirements for licence grant and activity commencement.

Key steps in this process are as follows:

LICENCE APPLICATION

Submitted as early as possible, noting application will need to include a draft work program.

ASSESSMENT AND APPROVAL OF STATEMENT OF ENVIRONMENTAL OBJECTIVES (SEO)

Requires preparation of an environmental impact report (EIR) and SEO, and approval of a consultation plan for targeted consultation on both EIR and SEO, if operations not within the ambit of an existing SEO

GRANT OF LICENCE

Subject to meeting pre-grant requirements, including approval of work program and approval of SEO, AIL is granted. Authorises licensee to carry out specific activities, subject to meeting conditions and pre-commencement requirements

PRE-COMMENCEMENT

Approval of operational management plan, notice of commencement (where required)

The following flowcharts provide more detailed process steps for the key licensing and approval requirements. Relevant sections of the HRE Act and regulations are included for reference. These should be read in conjunction with the HRE Act and associated regulations ensuring the latest versions are being referenced.

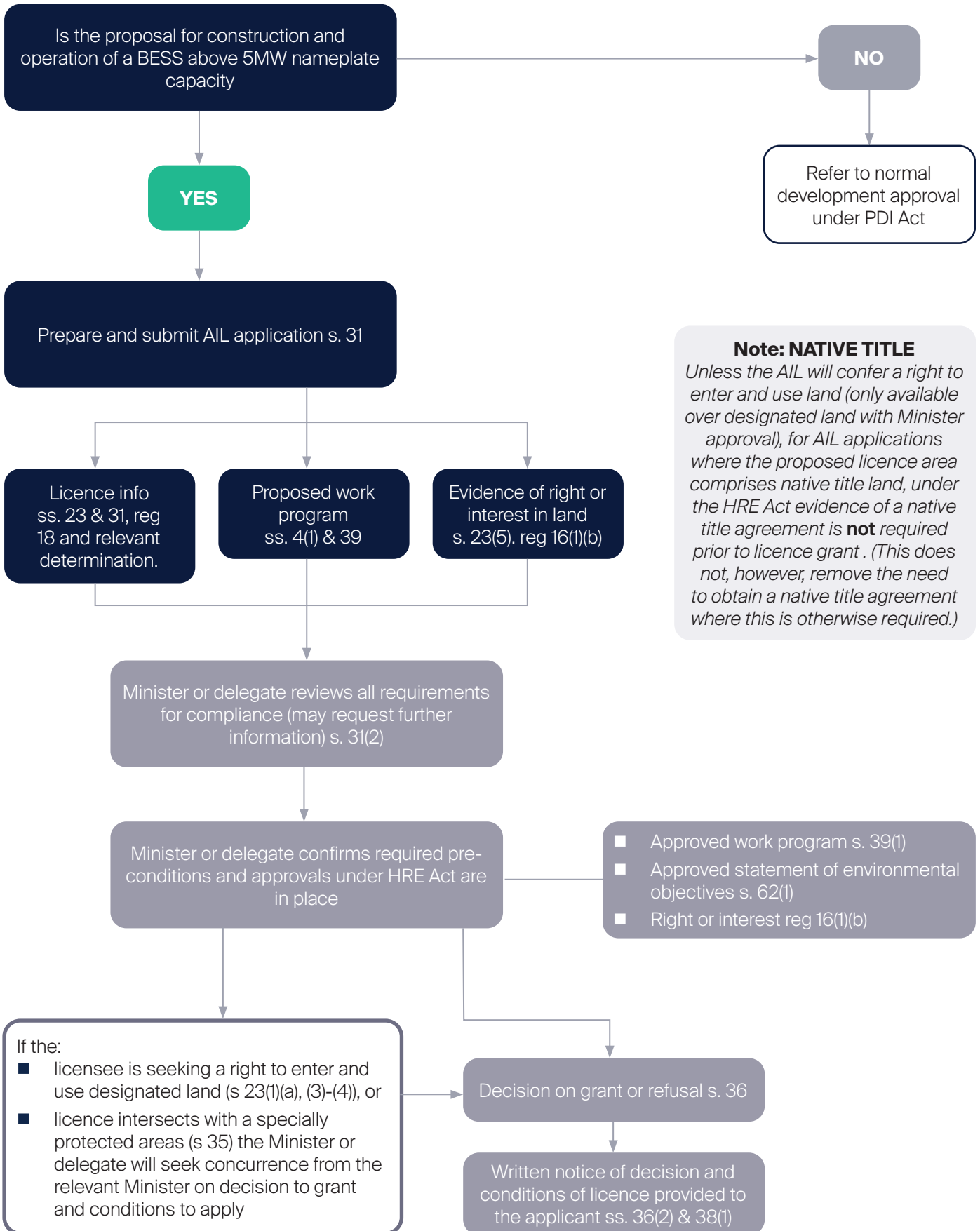
In navigating the processes under the HRE Act, it is recommended that proponents:

- submit a licence application as early as possible to get the application recognised. While the licence application is not required to be lodged first, doing so assists the Department for Energy and Mining (DEM) with planning and scheduling its regulatory activities and one window to government engagement.

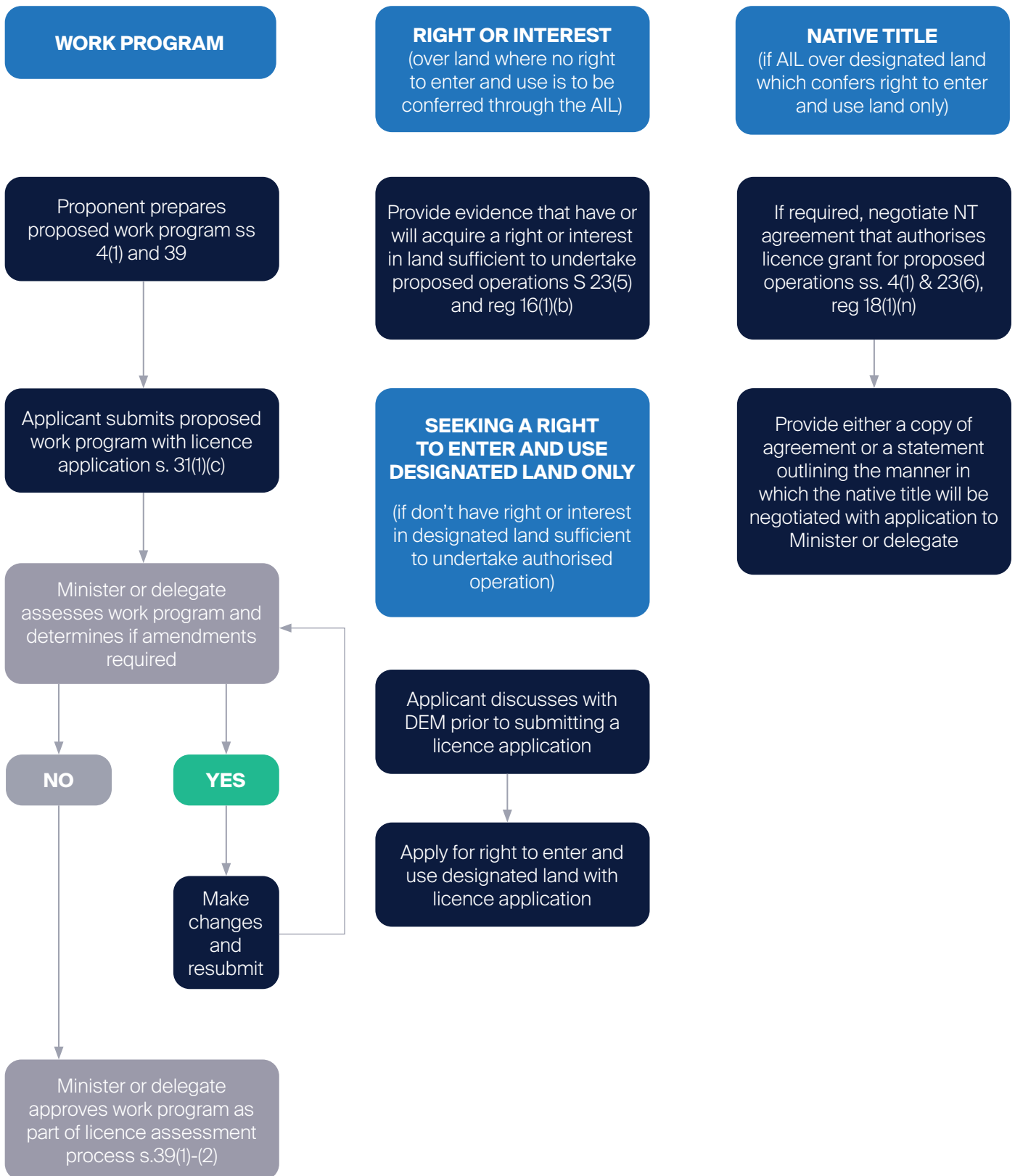
- take the time to understand the nuances of how the HRE Act operates specifically in relation to AILs, for instance land tenure and access requirements can affect under what circumstances provisions do or don't apply.
- recognise that some of the processes can be undertaken in parallel. Proponents should determine the way they want to proceed with approvals that is appropriate to their circumstances, noting the dependencies.

It should also be noted that there may be other statutory requirements that may apply in addition to those required by the HRE Act. DEM can provide an entry point for discussions with other state government Agencies.

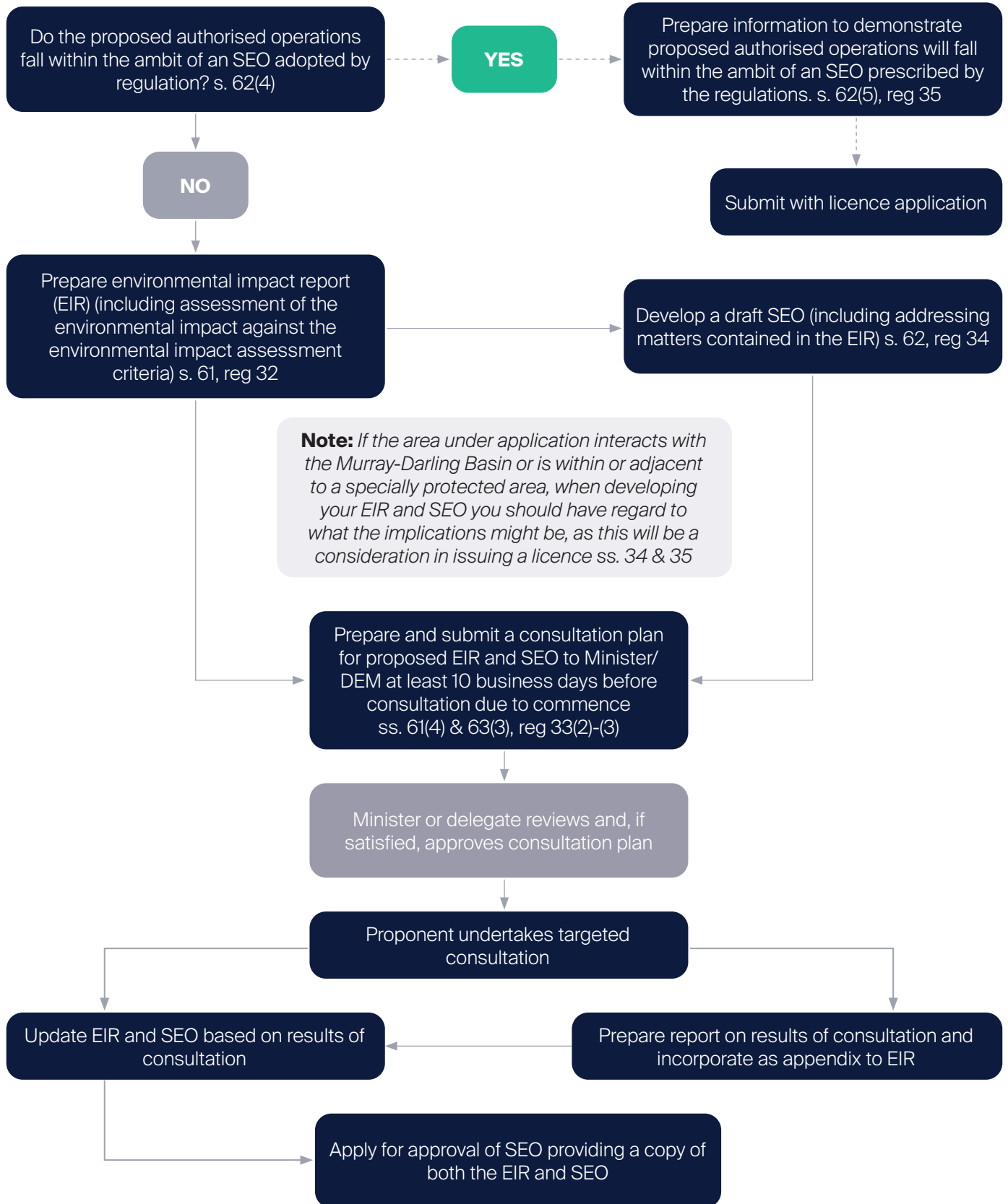
Associated infrastructure licence application approval

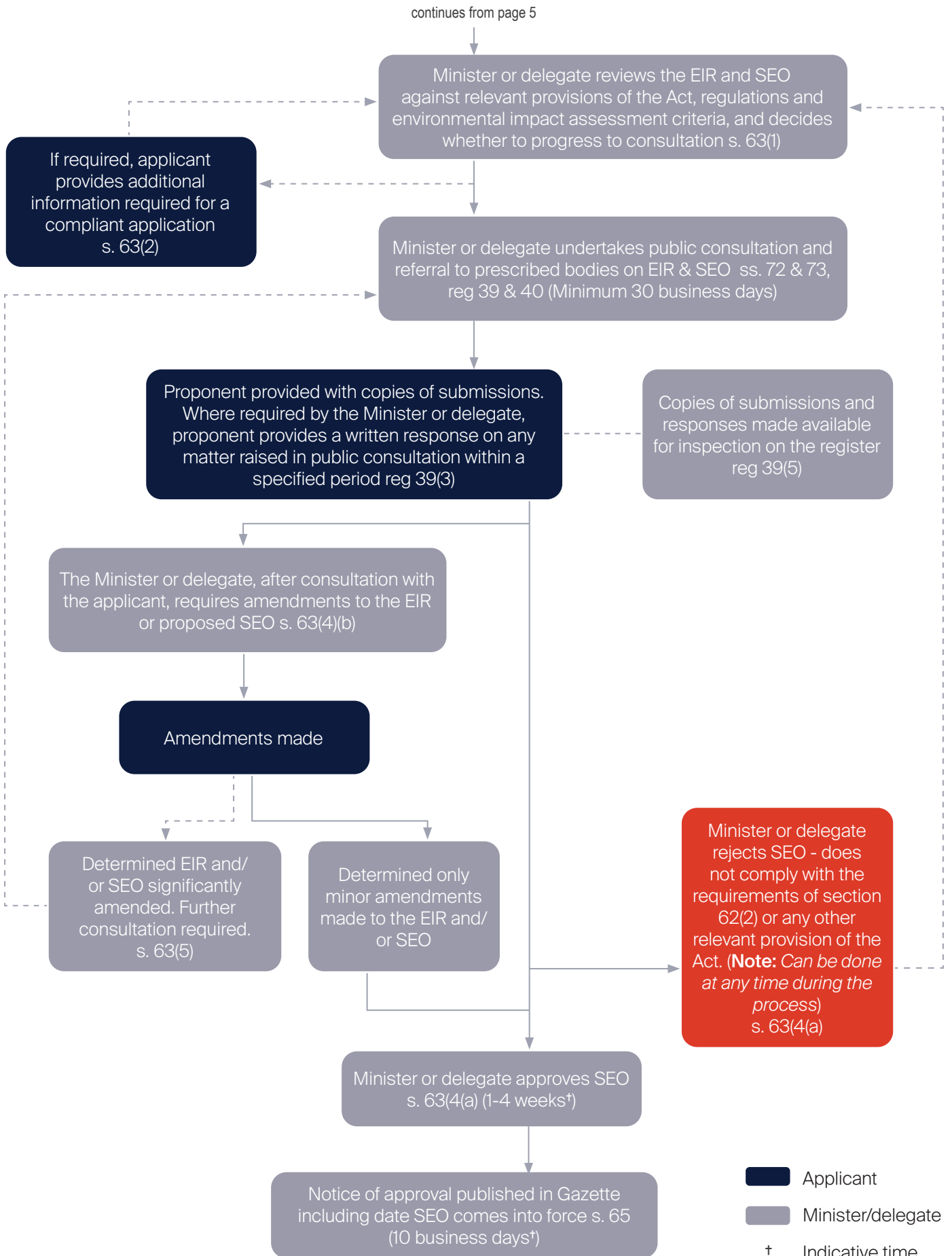


Licence – proposed work program, right or interest in land, native title

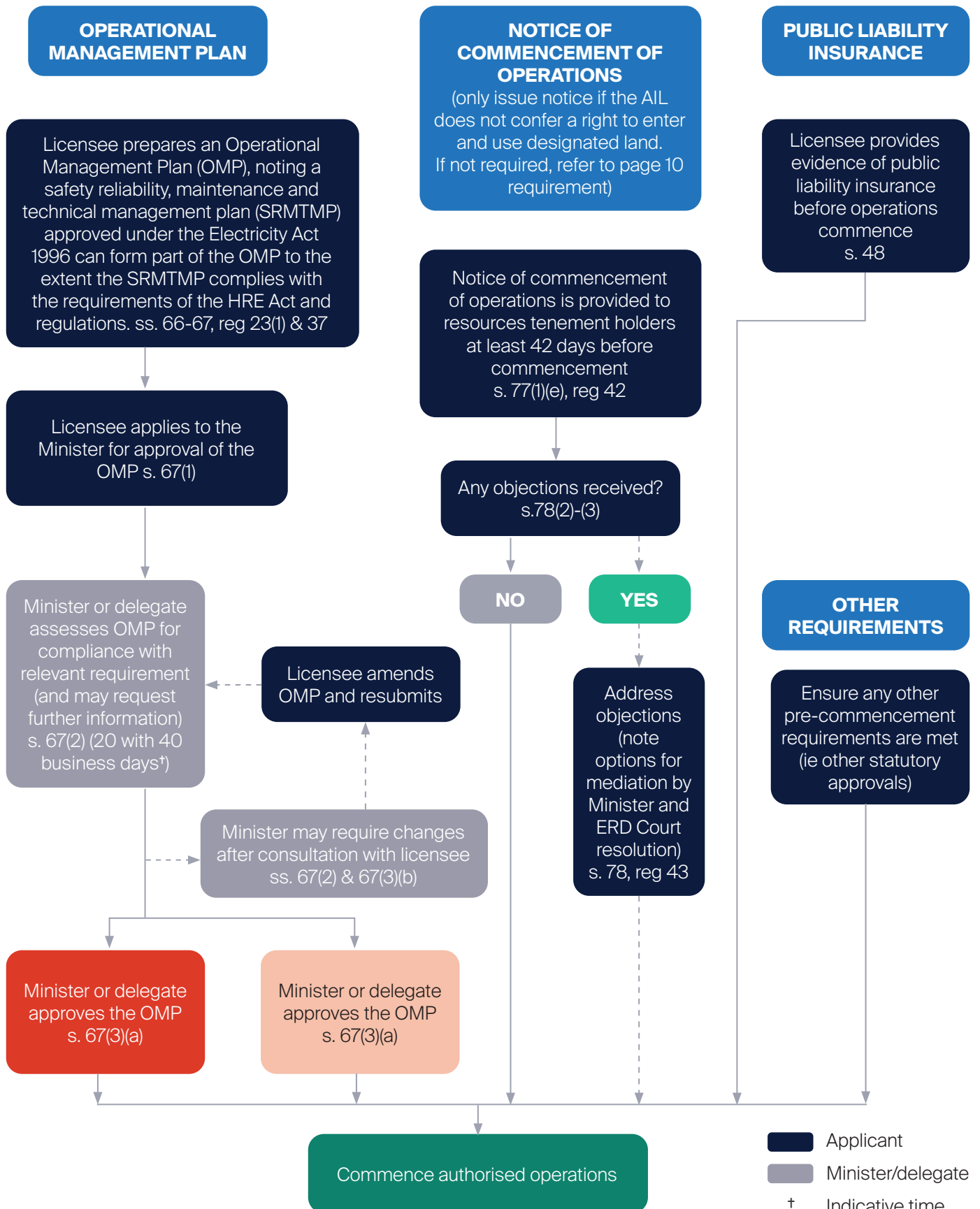


Approval of statement of environmental objectives (SEO)

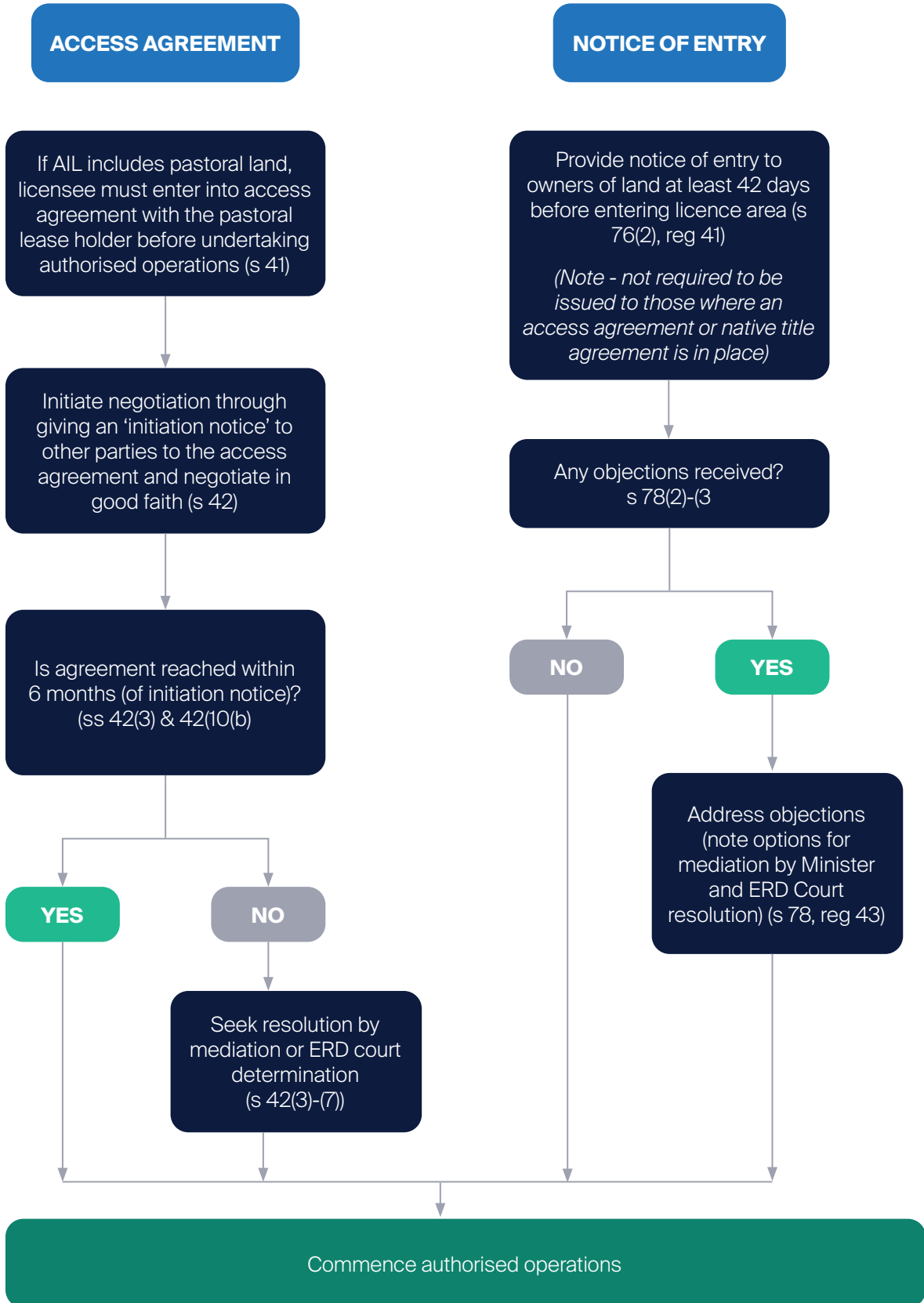




Pre-commencement requirements



Pre-commencement requirements – where AIL conferred a right to enter and use land over designated land only



For pathway 3, some of the processes can be undertaken in parallel. Proponents should determine the way they want to proceed with approvals that is appropriate to their circumstances, noting the dependencies for licence approval.

It should also be noted that there may be other statutory requirements that may apply in addition to those required by the HRE Act. DEM can provide an entry point for discussions with other state government Agencies.

FAQ

Making an application

Unlike the PDI Act, the HRE Act does not prescribe a form to be filled out when making applications. Applications are made in accordance with what has been determined by the Minister. These determinations are published on the DEM website. Refer to web link in following section.

Applicant transitional licence – existing operator

The transitional provisions in Schedule 1 to the HRE Act provide that an ‘existing operator’ does not, during the relevant period, require a licence or permit under the Act to continue operating the renewable energy infrastructure (see clause 17(1)). An ‘existing operator’ is relevantly defined as ‘a person who, immediately before the commencement of this Part, is lawfully operating renewable energy infrastructure’.

It is the Department’s position and expectation that the asset owner is generally the appropriate person to apply for and hold a licence. It is at the discretion of the asset owner as to whether they enter into a contractual arrangement with a third party to operate the infrastructure on their behalf or as their agent. Where this has occurred, it is the Department’s position that the owner will be a person who is ‘operating’ the infrastructure and is therefore capable of being an ‘existing operator’ for the purposes of the transitional provisions in Schedule 1 to the HRE Act.

Determinations

Determinations set out manner and form requirements not prescribed in the HRE Act or regulations. Compliance with a determination is required by the HRE Act.

Determinations have been created detailing specific requirements for:

- licence and permit applications
- SEO and OMP approvals
- Compliance reporting

All determinations are published on the [Ministerial determinations page](#) within the HRE Act section of the DEM website.

Checklists

Some checklists have been prepared to support applicants or licensees to meet HRE Act requirements. These can be found on the [guidance documents page](#) within the HRE Act section of the DEM website.

Further information, lodgement and reporting

DEM can be contacted about licensing and approval requirements, lodgement of documents for approvals and meeting of reporting obligations as per the following:

DEM Energy Resources Licensing: DEM.ERDLicensing@sa.gov.au

- Enquiries about, and applications for the approval of, licences and permits
- Licence reporting obligations (Part 5 of regulations, excluding incident reports)

DEM Energy Regulation: DEM.EnergyRegulation@sa.gov.au

- Enquiries about, and applications for the approval of:
 - consultation plans
 - statements of environmental objectives and environmental impact reports
 - operational management plans
- Incident reporting (regulation 30)

General information on the HRE Act is also be found at:

www.energymining.sa.gov.au/industry/hydrogen-and-renewable-energy/hydrogen-and-renewable-energy-act

Disclaimer. *This document only relates to regulatory requirements under the HRE Act. While every attempt has been made to ensure that the information in this document is accurate, the requirements for individual circumstances may vary. As such this document should be used for guidance purposes only. Applicants are advised to seek independent advice tailored to their individual circumstances, to ensure they identify and address, where applicable, Federal, state and local government approvals required for their specific project.*



Acknowledgement of Country

As guests on Aboriginal land, the Department for Energy and Mining (DEM) acknowledges everything this department does impacts on Aboriginal country, the sea, the sky, its people, and the spiritual and cultural connections 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.