



Government
of South Australia

Department for
Energy and Mining

Hydrogen &
Renewable Energy
Regulatory Guidelines

001

Consultation plan preparation



Department for Energy and Mining

Level 4, 11 Waymouth Street, Adelaide
GPO Box 618, Adelaide SA 5001

Phone +61 8 8463 3000

Email DEM.CustomerServices@sa.gov.au

www.energymining.sa.gov.au

South Australian Resources Information Gateway (SARIG)
map.sarig.sa.gov.au



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Preferred way to cite this publication. Department for Energy and Mining 2024. *Consultation Plan Preparation Guideline*. Hydrogen and Renewable Energy Regulatory Guidelines HRERG001. Department for Energy and Mining, South Australia, Adelaide.

Revision history

Date	Comment
October 2024	First published.

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Purpose

In accordance with sections 61 and 63 of the [Hydrogen and Renewable Energy Act 2023](#) (the Act), a licensee, including an applicant of a licence, is required to undertake consultation on a proposed environmental impact report (EIR) and statement of environmental objectives (SEO). The consultation plan must be prepared and implemented in accordance with the requirements of the Hydrogen and Renewable Energy Regulations 2024 (the Regulations), in particular regulation 33.

This consultation is specific to the assessment of the activities proposed within the EIR and SEO. It is separate to the proponent's general engagement and consultation activities with the community and landowners in introducing the company and the proposed project, which are more focussed on building and maintaining a trusting relationship with the community.

This guidance document provides additional detail to support the preparation of a consultation plan pursuant to sections 61 and 63 of the Act and to achieve best practice outcomes for stakeholder engagement.

The process of undertaking consultation presents an opportunity for licensees to demonstrate their commitment to the community, that identified impacts of proposed operations are avoided or minimised, as well as building relationships to establish or preserve a social licence to operate. Stakeholders are also an important source of information to understand the existing environment and to identify and manage potential impacts to the environment. Consultation with stakeholders may also result in de-risking projects and avoiding delays to project timelines by identifying and managing potential impacts and concerns in the early stages of the approvals process. It is important that licensees recognise the importance of consultation with stakeholders beyond the formal requirements of legislation and undertake consultation with integrity and transparency.

Consultation plan within the approvals framework

The licensing and approvals process under the Act has the following key steps:

Licence application – submitted as early as possible, noting will need to include draft work program.

Assessment and approval of statement of environmental objectives (SEO) – requires preparation of an environmental impact report (EIR) and statement of environmental objectives (SEO), and preparation and approval of a consultation plan for targeted consultation on both EIR and SEO.

Grant of licence – subject to approval of work program and approval of SEO. Authorises licensee to carry out specific activities, subject to meeting conditions and pre-commencement requirements.

Pre-commencement - Approval of operational management plan, notices of commencement (where required) and other statutory requirements

The development and approval of a consultation plan by an applicant for a licence is a part of the statutory requirements for the assessment and approval of an SEO.

Legislated requirements

Sections 61(4) and 63(3) of the Act, establish the requirement for consultation on the EIR and SEO, with regulation 33 setting out the requirement and manner for this to be undertaken by the licensee or applicant.

Specific requirements for a consultation plan, set out in the regulation 33, must be submitted by the licensee to the Department for Energy and Mining (DEM) prior to undertaking mandatory consultation on the EIR and SEO. This is a requirement for all

new EIRs and SEOs and any existing EIR and SEO undergoing review. Submission of the consultation plan to DEM should be accompanied by the relevant draft EIR and SEO.

The legislative requirements as stipulated under regulation 33 are summarised below in Table 1. See the [Regulations](#) for the complete list of requirements that a consultation plan must comply with.

Legislated requirement	Regulation
Specify the consultation commencement date	33(2)(a)
Provide a list of persons to be consulted, as required the regulations	33(2)(b)
Describe the method(s) of engagement including how relevant issues will be responded to	33(2)(c)
Focus of engagement of the environmental objectives and assessment criteria, including demonstration that potential impacts will be adequately managed and controlled. All relevant parts of the EIR and SEO must be identified and consulted on	33(2)(d)
The proposed plan must be submitted to the Minister for approval at least 10 days before consultation is due to commence	33(3)
At the conclusion of consultation, the licensee must prepare a report that details the results of consultation including the persons consulted, issues of concern raised, and any actions or proposed actions taken by the licensee to address those concerns	33(4)

Developing the consultation plan

In the consultation plan, the licensee should demonstrate:

- all relevant persons have been identified
- the rationale used to determine the persons selected
- that appropriate and effective methods of engagement were adopted
- consultation on the proposed operations focussed on informing the environmental objectives and assessment criteria (noting the broad definition of environment under the HRE Act) necessary to be achieved to demonstrate that any potential impacts of the proposed operations will be adequately managed and controlled.

While the regulations are prescriptive on who should be consulted, the consultation plan process provides an opportunity to consult more broadly and ensure that the impact assessment and objectives include stakeholders who are potentially impacted by the proposed operations both directly or indirectly.

The outcomes of the consultation must be reported as part of the consultation plan process, under regulation 33(4) and must also be recorded in the EIR as required by regulation 32(1)(f).

DEM will only accept formal submission of the EIR and SEO once all potential impacts to the environment, including relevant concerns raised by stakeholders during consultation have been considered and documented where relevant.

Once satisfied, DEM, as delegate of the Minister will undertake public consultation on all EIRs, and SEOs as required under section 72 of the Act. This process does not replace the requirement for the licensee to undertake their own consultation on the draft EIR and SEO.

Licensees are encouraged to maintain ongoing communication with DEM throughout the consultation process. Licensees should notify DEM in instances where it may become apparent that the proposed consultation plan, i.e. consultation period, identification of stakeholders, and/or methods of consultation, are no longer fit for purpose and deviations to the plan are required.

Further explanation and guidance to meet the requirements of the regulations in relation to developing a consultation plan is provided below.

Consultation timelines

Hydrogen and Renewable Energy Regulations 2024

33—Consultation by licensee

(2) The licensee must prepare a consultation plan to be approved by the Minister that—

(a) states the day on which consultation is due to commence

(3) A consultation plan must be submitted to the Minister for approval at least 10 days before consultation is due to commence or within such shorter period as may be allowed by the Minister in a particular case.

Licensees are encouraged to contact DEM prior to and/or during the development of a consultation plan to discuss the identification of stakeholders and expectations and requirements of undertaking consultation. The intention of initiating discussions between DEM and a licensee prior to submission, or during drafting, is to achieve:

- efficient decision making and resolving potential issues upfront.
- complete and comprehensive submissions that identify all relevant stakeholders.
- best practice outcomes for the preparation of the consultation plan and execution of consultation with stakeholders.

Once a consultation plan is ready for submission by a licensee, it must be submitted to DEM in accordance with the timelines set out in regulation 33, prior to undertaking consultation with stakeholders. The draft EIR and SEO documents subject to the proposed consultation should be included in the submission of the consultation plan.

Selection of a consultation start date to satisfy regulation 33(2)(a) must consider mandatory submission timeframes. Licensees must submit consultation plans to the Minister at least 10 days before consultation is due to commence. The applicant may also request a shorter timeframe as required, which will be accepted at the Minister's discretion.

Consultation period

Some stakeholders may have constraints on when and how they want to be consulted, including the governance around the process, which may need to be factored into a consultation plan. These requirements should be a consideration in developing a plan of engagement.

The Act does not prescribe a consultation period, however timelines should be determined by the licensee commensurate to the scope of operations and potential environmental impacts identified, as well as providing sufficient time for stakeholders to review the documents. It is important that stakeholders have an informed understanding of the proposed operations prior to providing comment and as such, the consultation period should also consider the time required to discuss the proposed project and for answering queries from stakeholders. The proposed consultation period should be justified in the consultation plan and consultation timelines should be made clear to stakeholders.

There may be instances where informal consultation and engagement with stakeholders potentially affected by the operations is appropriate before formal consultation, as specified within the consultation plan, commences. The objective of informal consultation, particularly in communities or areas where industry is new, is for licensees to

introduce the industry, business, project concept and/or key contact personnel to stakeholders to ensure that stakeholders are engaged early and are aware of and able to anticipate future engagement. have an informed understanding of the proposed operations prior to providing comment. This may also be an opportunity for the licensee to collaborate with stakeholders to identify any additional stakeholders prior to consultation; for example, an identified stakeholder may recommend groups, agencies or individuals with relevant knowledge or interest.

Early engagement also demonstrates respect and creates foundations for ongoing relationships. It's also an opportunity for licensees to identify risks early and subsequently manage them so that proposed timelines are more likely to be achieved.

Who to engage with

Hydrogen and Renewable Energy Regulations 2024

33—Consultation by licensee

(2) The licensee must prepare a consultation plan to be approved by the Minister that—

(b) includes a list of—

(i) the owners of the land to which the report relates;

(ii) any Recognised Aboriginal Representative Body—

(A) in respect of the area of land to which the report relates; or

(B) in respect of a specific Aboriginal site, object or remains on the land to which the report relates;

(iii) if the land to which the report relates is not the subject of a native title determination and there is no Recognised Aboriginal Representative Body identified under subparagraph (ii)—any traditional owners of Aboriginal sites or objects on the land to which the report relates;

(iv) any affected agency or instrumentality of the Crown;

(v) —

(A) each council within the proposed release area; or

(B) if any part of the proposed release area falls outside of council areas—the Outback Communities Authority established under the Outback Communities (Administration and Management) Act 2009

Regulation 33(2)(b) lists stakeholders that must be identified by the licensee in a consultation plan.

An owner of land (insofar as may be relevant in the circumstances of the particular case) is defined under the Act as:

- (a) a person who holds a registered estate or interest in the land conferring a right to immediate possession of the land; or
- (b) a native title holder in respect of the land; or
- (c) a person who has, by statute, the care, control or management of the land; or
- (d) a person who is lawfully in occupation of the land; or
- (e) a person who holds a pastoral lease in respect of the land; or
- (f) a person who holds a resources tenement in respect of the land; or

(g) the holder of an aquaculture lease or aquaculture licence under the Aquaculture Act 2001; or

(h) a person of a class brought within the ambit of this definition by the regulations;

Engagement in accordance with consultation plan requirements also provides an opportunity to identify and engage with stakeholders more broadly and to ensure that the EIR and SEO is comprehensive in identifying and addressing all potential impacts. Consultation on an EIR and SEO should also include any other relevant stakeholder that may either be potentially affected by the proposed operations or may have a key understanding of the existing environment and the potential impacts of the proposed operations.

For example:

- subject matter experts
- non-government organisations that are not considered an owner of land under the Act but have an interest in the project area.
- communities in close proximity to the proposed project should be consulted to ensure they are aware of the project and the impacts (or benefits) it may present to their community.

While the onus remains with the licensee to demonstrate that all relevant stakeholders have been identified, for consideration, a list of potential relevant stakeholders is provided below:

- Landholders on which land operations will occur, e.g., pastoral or freehold land
- Native title holders and claimants through the Recognised Aboriginal Representative Body (RARB)
- Traditional Owners of the land (should the land not be subject to Native Title and there is no recognised RARB). Contact information for Indigenous Corporations is available via the [Office of the Registrar of Indigenous Corporations register](#)
- Conservation and environmental interest groups

- Local councils
- Any relevant tenement or licence holder e.g. Mining, Energy Resource or Aquaculture licence holders
- State government agencies, e.g., Department for Environment and Water, Department for Infrastructure and Transport, Environment Protection Authority, Landscapes Boards SA, Aboriginal Affairs and Reconciliation, SafeWork SA, Department of Primary Industries and Regions SA.

Where additional relevant stakeholders are identified during consultation, licensees should, through negotiation with that stakeholder, consider extending the consultation timeframe to provide an opportunity for all relevant stakeholders to provide feedback. Where additional relevant correspondence is received outside of the consultation period but prior to DEM approval of an EIR and SEO, licensees should consider the relevance and importance of the additional information and incorporate it in the EIR and SEO where relevant and within reason resubmit. In these instances, licensees should notify DEM of deviations from the approved consultation plan and any intention to resubmit the EIR and SEO.

Method of consultation

Hydrogen and Renewable Energy Regulations 2024

33—Consultation by licensee

(2) The licensee must prepare a consultation plan to be approved by the Minister that—

(c) describes the method of engagement to be used in consulting with the persons listed in the consultation plan including how the licensee intends to respond to relevant issues raised as a result of consultation.

Methods of consultation adopted by licensees should be underpinned by transparent, respectful, and open communication. The methods and tools used by licensees to consult with stakeholders should be specific to each project, e.g. projects proposed in areas that are unfamiliar with industry will require more personal, lengthy and in-depth consultation via multiple consultation methods.

DEM encourages licensees to refer to the [Clean Energy Council Community Engagement Guidelines for Building Powerlines and Renewable Energy Developments](#), which outlines key principles for effective liaison between proponents, the community and various stakeholders.

A broad range of consultation methods exist, and the application of any method(s) should be considered on a case-by-case basis. It is important to note that stakeholders may have different preferences or specific needs that should be considered in planning and undertaking consultation, for example, the [Aboriginal heritage guidelines for resource projects in South Australia](#) provide a list of consultation methods and considerations that may be applicable for engagement with Aboriginal groups. Tools and methods for consultation with a range of stakeholders may also include, but are not limited to:

- **Website** – licensees may wish to publish the documents on their website for public viewing, comment or enquiries.

- **Information sheets, newsletters, advertorials, brochures** – providing general or issue-specific information, direct stakeholders to sources of additional information and/or a way to provide feedback.
- **Community event, meeting or drop-in sessions** – providing material and information directly to the community, an opportunity to directly engage and build rapport within the community and to gather feedback and contact details for ongoing engagement. Details or complexities of the project should be communicated in an understandable manner.
- **Community liaison** – an ongoing point of contact within the community that has existing knowledge of the area and has established or will establish ongoing relationships within the community. The liaison may share information, receive feedback and build rapport with the community.
- **Email** – a targeted method of consultation to provide information, request feedback, and/or provide notification or updates to stakeholders.

Method(s) adopted by licensees and described in the consultation plan should be accompanied by proposed timelines or milestones for consultation.

Focus of consultation

Hydrogen and Renewable Energy Regulations 2024

33—Consultation by licensee

(2) The licensee must prepare a consultation plan to be approved by the Minister that—

(d) focuses the engagement on the environmental objectives and assessment criteria necessary to be achieved to demonstrate that any potential consequences of the proposed authorised operations will be adequately managed and controlled; and

(e) identifies all relevant parts in the environmental impact report or statement of environmental objectives that are to be consulted on; and

(f) complies with any other requirement specified by the Minister to the licensee.

The objectives of undertaking consultation should be made clear to stakeholders to ensure that key matters are consulted on and to guide the consultation process.

A key focus of engagement with stakeholders is to identify elements of the environment that stakeholders regard as having particular environmental value or significance. The protection of identified environmental value or significant areas raised by stakeholders from real and potential impacts of the proposed operations during all phases of the project must be considered. The views of stakeholders in this regard will be essential in feeding into the assessment of environmental impacts associated with proposed operations, and the development of environmental objectives and assessment criteria.

It is important that stakeholders are appropriately informed of the operations proposed to be undertaken and the associated potential impacts. It is also important to recognise that some stakeholders will have specific knowledge on particular environmental elements. Licensees should consider identifying relevant sections of the EIR and SEO when consulting with stakeholders with a known area of expertise or interest as part of their engagement strategies. Engagement may need to be refined over time or tailored depending on the stakeholder.

Consultation report

Hydrogen and Renewable Energy Regulations 2024

33—Consultation by licensee

(4) At the conclusion of consultation, the licensee must prepare a report on the results of consultation, setting out—

- (a) the persons consulted; and
- (b) any issues of concern raised by persons consulted; and
- (c) the steps (if any) taken or proposed to be taken by the licensee to address those concerns.

(5) The licensee must provide the Minister with the report required under subregulation (4) at a time and in a manner and form determined by the Minister and notified to the licensee.

The regulations require a report be prepared that demonstrates how consultation has influenced the development of the applicant's proposed environmental outcomes, as well as demonstrating that stakeholders have been adequately consulted and stakeholder concerns and comments appropriately responded to.

To satisfy regulation 33(5), licensees may elect to prepare and submit a report that addresses each subregulation of regulation 33(4) as a separate report with the EIR and SEO to DEM or to append the report to the EIR submitted.

In preparing the report, the applicant should ensure the report provides a sufficient level of detail against each subregulation of regulation 33(4) such that DEM is able to determine that stakeholder responses received have been responded to, concerns addressed, and/or incorporated where appropriate in the EIR and SEO.

The completeness of consultation and final reporting is fundamental to DEM's determination of the adequacy of the EIR and SEO to progress to the next stages of assessment.

Consultation by Minister

Hydrogen and Renewable Energy Regulations 2024

39—Consultation by Minister

- (1) For the purposes of section 72 of the Act, the Minister must undertake public consultation required under that section in accordance with the requirements of this regulation.
- (2) The Minister must publish a notice in such manner as the Minister thinks fit—
 - (a) specifying a place at which a copy of the relevant report or statement may be obtained; and
 - (b) inviting written submissions in relation to the report or statement to be given within a period specified in the notice (which must be at least 30 days after publication of the notice).
- (3) The Minister—
 - (a) must give the person who submitted the relevant report or statement a copy of any submission received by the Minister under subregulation (2)(b) within the relevant period specified by the Minister.
 - (b) may require the person who submitted the relevant report or statement to respond to any matter raised in any such submission within a period specified by the Minister.
- (4) A submission under subregulation (2)(b) or a response under subregulation (3)(b) cannot be made on the basis that the submission or response (or part of the submission or response) will be kept confidential.
- (5) The Minister must cause copies of written submissions and responses made under this regulation to be available for inspection on the register.
- (6) The Minister may refuse to publish submissions made under this regulation on grounds that the submissions are irrelevant, offensive, or on any other grounds that the Minister thinks fit.
- (7) If the Minister decides to reject a proposed statement (or revised statement) of environmental objectives without inviting submissions on the application, the requirement to publish a notice under subregulation (2), and the requirements of subregulations (3) and (4), do not apply in relation to –
 - (a) the proposed statement (or revised statement) of environmental objectives: or
 - (b) the environmental impact report on which the proposed statement is based.

Following formal submission of the EIR and SEO after consultation has been undertaken and as part of applying for approval of the SEO, pursuant to section 63(1) of the Act, the Minister must undertake public consultation on the EIR and SEO. This process will commence once the formally submitted EIR and SEO documents have been accepted by DEM as having met the requirements of section 61 and 63 of the Act and associated regulations.

DEM will only accept formal submission of the EIR and SEO once all potential impacts to the environment, including relevant concerns raised by stakeholders during consultation have been considered and documented where relevant. The applicant may be required to provide additional information before the EIR and SEO are accepted as compliant.

Once satisfied, DEM, as delegate of the Minister will undertake public consultation on the EIR and SEO as required under section 72 of the Act, in accordance with regulation 39. This process does

not replace the requirement for the licensee to undertake their own consultation. If applicants undertake effective engagement as part of developing the EIR and SEO and in accordance with consultation plan requirements, this reduces the risk of new issues being raised during engagement by the Minister.

Responses received from the public consultation will be published on the [Hydrogen and Renewable Energy Register](#) on the DEM website. All relevant comments received from the public consultation will be required to be addressed by the licensee and, where appropriate, incorporated into the EIR and/or SEO. Comments from the public consultation that are irrelevant, offensive, or for any grounds that the Minister thinks fit will not be published and licensees will not be required to address them.

If the department identifies significant new stakeholders, impact events or issues during the statutory consultation process that weren't adequately covered by the application, additional information may be requested from the licensee. This may lead to delays in the assessment and approvals process.

Further to this, if substantial changes are required to the EIR and SEO after the Minister's public consultation, the licensee will be required to update the documents where relevant and undertake their own consultation again on the amended EIR and SEO prior to resubmission. Licensees should consult appropriately in the first instance to avoid this outcome. The public consultation process undertaken by the Minister is not a substitute for the applicant's own consultation.

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 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

ACKNOWLEDGEMENT OF COUNTRY

As guests on Aboriginal land, the Department for Energy and Mining 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.

FURTHER INFORMATION

Department for Energy and Mining
Level 4, 11 Waymouth Street, Adelaide
GPO Box 618, Adelaide SA 5001
T +61 8 8463 3000
E DEM.EnergyRegulation@sa.gov.au
www.energymining.sa.gov.au



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