SOUTH AUSTRALIA

Government of South Australia
Department for Energy and Mining

Hydrogen and Renewable Energy Act

Regulatory Impact Statement

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Acknowledgement of Country
As guests here on Kaurna 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.

Date:	Comment:

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Executive Summary

South Australia is on the cusp of a genuinely transformational renewable energy and green hydrogen opportunity. It is estimated there is nearly 100GW of economically developable wind and solar resources in South Australia, with $20 billion and 14GW of generation in the investment pipeline already. On top of the publicly announced pipeline of projects, the government estimates an even higher value of non-publicly announced projects at early design phase, including GW scale wind and solar projects proposed for the state's pastoral lands and state waters.

Interest in South Australia's renewable resources comes at a time when the world is looking for sustainable fuels to drive the global decarbonisation effort. Green hydrogen is the tool that will allow the state to share its world class wind and solar resources with the world. By 2030, South Australia has the ambition to be producing and exporting over 1 million tonnes per annum. With this ambition comes an enormous injection of investment, jobs, and renewable energy generation.

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. The recent South Australian Productivity Commission (SAPC) report into South Australia's renewable energy competitiveness found significant regulatory barriers within the state that are limiting opportunities for large-scale renewable energy and hydrogen development.

As the state shifts towards large-scale renewable energy development the scale of which has not been seen, it is clear the state's regulatory frameworks for renewable energy development are no longer fit for purpose. Critical access to pastoral land, offshore wind, and co-existence frameworks are not currently delivering for the state and need to be urgently addressed. By addressing regulatory barriers, we can unlock the pipeline of large-scale renewable projects, establish the state as a leader in green hydrogen development, and ensure all South Australians share in the investment and emerging wealth.

In seeking to address regulator barriers, the state government has five key objectives:

1. Catalyse development of the state's hydrogen sector and support delivery of the Hydrogen Jobs Plan
2. Deliver investment certainty and security, and unlock the pipeline of renewable energy projects
3. Support South Australia's economic diversity and prosperity through a framework that supports different economic activities to occur on the same land where possible
4. 'Lift the bar' to ensure projects pursue Environment, Social and Governance (ESG) outcomes
5. Provide a nation-leading, "one window to government" approach for renewable energy development

Through analysis and consultation, the Department for Energy and Mining has identified three policy options to address the objectives:

1. Option 1: Status quo
2. Option 2: Improvements to existing regulatory frameworks
3. Option 3: Development of a fit for purpose Hydrogen and Renewable Energy Act

Through considered analysis, extensive community consultation and feedback, Option 3: A Hydrogen and Renewable Energy Act is the most appropriate regulatory tool to establish a competitive renewable energy industry that delivers benefits for all South Australians, decarbonises the state's economy, and drives investment and development across the state.

The framework proposed is designed to unlock the billions of dollars in investment on the state's pastoral land and state waters, deliver early engagement and consent provisions for Native Title groups, enable benefit sharing with Aboriginal communities, and provide protections and security to the environment, communities, and landowners. Developers will be able to operate in South Australia with security of tenure and be provided a streamlined 'one window to government' framework that will facilitate approvals and conditions in a timely and efficient manner.

1. What is the policy problem?

As global economies look to decarbonise, there is growing international demand for clean fuels from renewable sources, including hydrogen. As Australia seeks to achieve net zero carbon emissions by 2050, energy derived from renewable sources will need to be about 40 times larger than today's national electricity market.

The increased and forecast demand has resulted in a significant amount of renewable energy and hydrogen investment and development proposed for South Australia, with strong interest in establishing renewable energy projects on government-owned pastoral lands and state waters, which are subject to native title rights and interest groups.

As the state rapidly shifts towards large-scale renewable energy development and hydrogen production, it has become clear the state's current regulatory frameworks are insufficient to facilitate the projects necessary for the state to achieve the renewable energy transition, decarbonise the economy, and develop a competitive hydrogen industry.

Lack of access to pastoral land and state waters is a major roadblock for development, and the frameworks are not currently delivering the greatest benefits to all South Australians, Aboriginal communities and Native Title groups, or the environment. Further, the current frameworks are enabling proponent driven development to occur in a fragmented way and without an appropriate level of regulation across the project lifecycle.

The limitations of the existing regulatory frameworks were recently confirmed by the South Australian Productivity Commission (SAPC) as part of its inquiry into South Australia's renewable energy competitiveness. The SAPC identified gaps in the policies and procedures

used to manage renewable energy developers' applications to undertake exploration activity, or develop projects on, pastoral lands. Consequently, the existing regulatory obligations and approval processes to access and use pastoral land effectively limits opportunities for renewable energy.

Regulatory frameworks in the state are not fit for purpose for the next stage of large-scale renewable energy and hydrogen development. We need to shift to a system of strategic, orderly government-led development focussed on pursuing shared benefit for all South Australians. The regulatory barriers explained below establish the need for urgent government action to unlock the state's pipeline of large-scale renewable energy projects and support the establishment of a significant hydrogen sector.

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. However, with the anticipated large-scale expansion of renewable energy projects needed to feed South Australia's hydrogen sector and decarbonisation 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.

While the *Pastoral Land Management and Conservation Act 1989* (the Pastoral Act) has provided for the construction and operation of a wind farm on pastoral land since 2015, the current regulatory pathway has never been used, and is not equipped to deal with the substantial hybrid projects (hydrogen, wind, solar, storage) now being proposed.

Land access provisions in the Pastoral Act currently operate on a 'first come, first served' basis, whereby proponents approach government for access to pastoral leases of their choice. There are also no limits on the number of pastoral leases that can be included in an application, which when combined with the exclusivity provisions in the Pastoral Act could result in land banking activities.

Provisions to assess applications however are not yet established, with the Pastoral Act providing no mechanism for broader strategic priorities to guide decision making. The 'first come, first served' approach does 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 best serve the state's broader strategic interests in developing a globally significant green hydrogen sector and decarbonising other major local economic sectors.

OFFSHORE (STATE WATERS) LAND ACCESS

In South Australian state and gulf waters, there are currently no offshore wind farms or renewable energy facilities, however there are several proponents interested in developing projects in South Australian (state) and Australian (Commonwealth) waters. The state does not yet have a dedicated policy framework for assessing, licensing, and regulating offshore wind developments, reducing the investment potential for the state and stalling development.

The Australian government has recently consulted on and introduced dedicated legislation to regulate offshore wind developments in Commonwealth waters, by identifying and releasing dedicated areas of strategic interest to both industry and government. Development of a state-wide framework presents an opportunity to broadly align with federal legislation, reducing regulatory barriers and improving investment potential for the state while delivering benefits to local communities and economies.

While the steps to develop renewable energy projects in state waters are very similar to projects proposed for onshore locations, a dedicated framework and provisions are required to manage the unique impacts and stakeholders, including the aquaculture, fisheries, and maritime industries.

LACK OF INCLUSIVE ABORIGINAL AND NATIVE TITLE FRAMEWORK

In order for South Australia to develop a significant hydrogen sector and decarbonise our economy, large tracts of land will be required to support renewable energy and hydrogen projects. This renewable energy transformation will largely occur on land under Native Title and will impact on Aboriginal people's rights and 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.

Current frameworks for renewable energy and hydrogen development do not adequately address the role or rights Native Title groups and Aboriginal people have in land in South Australia, with decision-making processes and consultation requirements insufficient in facilitating the informed, early, and ongoing participation of Aboriginal people.

Aboriginal people are also not sufficiently resourced to participate and engage with project proponents on their terms through the *Native Title Act 1993* and *Aboriginal Heritage Act 1988* agreement making processes, disadvantaging Aboriginal communities and lengthening development approval timeframes.

Some Native Title groups have indicated that a significant amount of capability building is also required for their communities to participate in the renewable energy sector.

LACK OF A 'ONE-WINDOW-TO GOVERNMENT' APPROACH

The broad end-to-end regulatory framework for large-scale renewable and hydrogen projects involves a number of Acts and Regulations, with different frameworks and government agencies 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 utilises a 'one window to government' approach for mining activities under the *Mining Act 1971* (the Mining Act) and energy resource activities under the *Petroleum and Geothermal Energy Act 2000* (the PGE Act), with the regulatory systems consistently recognised as world-leading for regulatory efficiency and competitiveness.

South Australia continues to be recognised as an energy world leader for public policy and investment attractiveness, achieving 70% renewable energy penetration in 15 years, 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 and is essential in helping the state unlock the renewable energy and hydrogen transformation.

LACK OF HYDROGEN REGULATORY FRAMEWORK

The state also lacks a dedicated regulatory framework and pathway for hydrogen generation facilities, creating regulatory uncertainty for the growing sector.

Dedicated 'one window to government' regulation would provide all hydrogen generation activities (including both 'green' and 'blue' hydrogen) the same regulatory security and certainty as is currently provided by the Mining Act and PGE Act. A 'one window to government' approach to regulation would enable a robust regulatory framework where the Department for Energy and Mining is the lead agency responsible for coordinating all relevant state safety and environmental regulatory agencies and the respective legislative requirements.

Given the government's aspirations to create a globally competitive large-scale hydrogen industry, it is important that the government has full control and consideration of the regulatory processes that will apply for hydrogen generation to ensure the safe and reliable performance of this emerging industry in the public's interest.

INSUFFICIENT DECOMMISSIONING, REHABILITATION AND FINANCIAL ASSURANCE REQUIREMENTS

The Pastoral Act and the *Planning, Development and Infrastructure Act 2016* (the PDI Act) 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, landowner, and community expectations.

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 land uses.

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

As a result, the state is currently exposed to risk as the frameworks also lack financial assurance required to be paid by developers, to protect the state from assuming post-operations rehabilitation or abandoned assets after the activities have ceased.

DATA IS NOT COLLECTED BY THE STATE

There is currently no requirement for project proponents to provide data gathered during the stages of project development to the state government, meaning valuable data on wind and solar resources is lost, impacting further investment potential for the state.

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

Both the Mining Act and PGE Act 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.

2. Why is government action needed?

Current regulatory frameworks are unable to support the renewable energy transition required to develop a significant hydrogen sector and decarbonise the economy

While South Australia has had remarkable success in achieving ~70% renewable energy penetration in just over 15 years, the limitations of South Australia's regulatory framework outlined above are hindering the state's ability to deliver the large-scale renewable energy and hydrogen transformation required to reach net zero by 2050.

Large renewable developers have expressed interest in developing projects on state-owned pastoral land and state waters however projects have stalled due to outdated regulatory and legislative barriers. Investment in the state is being delayed as a result, and local communities are missing out on the benefits of regional investment. Such projects are critical to developing a globally significant hydrogen export industry and transforming the state's economy as the nation shifts towards a net zero economy.

The large-scale renewable projects proposed for the state also represent a new competing land use in a state that supports multiple and sequential land uses. A land access and management system is needed to facilitate multiple land uses alongside renewable energy projects. Frameworks allowing mining, agriculture and pastoralism, tourism and recreational activities, local communities, fishing and aquaculture, and maritime shipping and transport to coexist is crucial to delivering a renewable energy and hydrogen sector while limiting impacts to other established and productive land uses.

Finally, the introduction of an orderly, government-led process for renewable energy and hydrogen development will ensure that all South Australians can share in the benefits of the multi-billion-dollar transformation. A fit for purpose framework is an opportunity improve outcomes for Aboriginal communities, the environment, local communities, and the entire state.

GOVERNMENT CAPACITY TO INTERVENE

Many of the current issues being experienced are a direct result of the existing frameworks regulating renewable energy development being outdated, or lacking altogether.

South Australia has a long-established history in operating end to end, 'one window to government' frameworks for the resources sectors in the state. The frameworks established under the Mining Act and PGE Act are consistently recognised as leading practice regulation, in which the Department for Energy and Mining (DEM) works with its co-regulators to streamline the process for proponents. South Australia is regularly featured at the top of the Fraser Institute's independent industry rankings of jurisdictions' mining and petroleum regulatory frameworks, for both investment attractiveness and policy settings.

The introduction of a new framework is an opportunity to take learnings from well-established industries and apply to the nascent large-scale renewable and hydrogen industry, emulating sections that have functioned well, and improving upon those that have not.

Government regulation remains the only tool capable of designing and implementing a 'one window to government approach' for the sector. Land access provisions established in the Pastoral Act and other legislation, planning processes under the PDI Act, and various environmental and heritage approvals under state and federal legislation require complex interactions with multiple regulators.

Through considered analysis and consultation, new coordinated regulation will result in the reduction of regulatory barriers and the streamlining of government services, improving

security, certainty and efficiency for developers and proponents, and social and economic outcomes for communities.

OBJECTIVES OF GOVERNMENT ACTION

The unprecedented scale of transformation and demand for access to pastoral land and state waters 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 South Australians and the environment.

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.

Removing regulatory barriers in the large-scale renewable energy and hydrogen sector can realise significant benefits:

- Catalyse development of the state's hydrogen sector and support delivery of the Hydrogen Jobs Plan:
    - Developing a dedicated legislative framework for the entire lifecycle of large-scale hydrogen projects will signal to industry that South Australia is an attractive and secure location to invest. Providing nation-leading frameworks will complement the valuable renewable energy resources within the state, catalysing development of a hydrogen sector.
    - Dedicated legislation is also required to support delivery of the government's Hydrogen Jobs Plan, a $593 million commitment to establish a 250MW hydrogen electrolyser, 200MW hydrogen-powered power station, and accompanying hydrogen storage.
- Deliver investment certainty and security, and unlock the pipeline of renewable energy projects:
    - Facilitate land access pathways for the state's pastoral land and state waters, renewable energy developers can progress projects with confidence and operate in a streamlined, secure environment.
    - Provide a framework that allows more renewable energy and hydrogen projects to enter and progress through the development pipeline, a key objective of the Hydrogen Jobs Plan.
    - Reduce risk through:
        - the strategic identification of the most suitable areas for renewable energy development on government owned land in partnership with Native Title groups as co-existing land owners
        - early identification and avoidance or management of potential environmental, cultural and heritage impacts
        - building stronger community support and social acceptance for large-scale renewable energy and hydrogen development.

- Support South Australia's economic diversity and prosperity through a framework that supports different economic activities to occur on the same land where possible:
    - 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 Act, Mining Act, PGE Act, *Harbors and Navigation Act* 1993 and the *Aquaculture Act 2001*.
    - interactions with other land uses such as primary industries, commercial forestry, carbon farming, tourism, maritime, defence and mining.
- 'Lift the bar' to ensure projects pursue Environment, Social and Governance (ESG) outcomes:
    - Ensuring the state only hosts those proponents willing to embrace coexistence with current land owners and users and deliver community and environmental benefits through their projects, in line with leading ESG requirements.
    - The government is committed to respectfully engaging and collaborating with Native Title groups and other traditional owners, recognising their status as coexisting landowners with the government, to develop a new framework and support their ongoing participation in regulating the sector.
    - Achievement of a net benefit to the environment, supporting positive outcomes for biodiversity and ecosystems at the same time as the state responds to climate change.
    - Ensure development benefits local communities through partnerships, local employment, local business opportunities, decarbonisation of other economic sectors and energy security.
- Provide a nation-leading, "one window to government" approach for renewable energy development:
    - South Australia's 'one window to government' approach to resource regulation provides a central service point for industries recognised for their strategic and significant contribution to the state's present and future economy. DEM will act as a first port of call, helping proponents navigate the various regulatory licensing and approval processes under all relevant legislation, and delivering improved efficiencies to such licensing and approvals.

3. What policy options are to be considered?

Through analysis of current regulatory frameworks and barriers, DEM identified three policy options available to the government to unlock renewable energy and hydrogen development in the state. Policy options are:

- Option 1: Status quo
- Option 2: Improvements to existing regulatory frameworks
- Option 3: Development of a fit for purpose Hydrogen and Renewable Energy Act

OPTION 1: STATUS QUO

The status quo option would involve no regulatory intervention by the government and would rely on existing frameworks to regulate and manage renewable energy and hydrogen projects in South Australia.

Under the status quo option, hydrogen projects are not specifically regulated, and the government does not have the ability to grant access competitively and effectively to pastoral land and state waters for large-scale renewable development. Development will continue to be progressed in a disorderly manner, without consideration of strategic priorities of the state, nor the benefits that can be shared among local communities and people.

Projects will continue to be progressed on a 'first come, first served' basis and land banking activities may reduce the number of successfully developed projects, hindering the state's ability to establish a competitive hydrogen sector, ensure sovereign capability and energy security, or contribute to the achievement of net zero by 2050 in South Australia.

OPTION 2: IMPROVEMENTS TO EXISTING REGULATORY FRAMEWORKS

This option would retain the current regulatory framework including:

- Access to pastoral land for renewable energy development granted under the Pastoral Act, regulated by the Department of the Environment and Water (DEW).
- Development assessment and approval granted under the PDI Act, largely through the s.106 crown sponsorship process for projects, regulated by Planning and Land Use Services (DTI-PLUS) within the Department for Trade and Investment.

Significant legislative amendments would be required to the Pastoral Act to create a new, updated tenure system to introduce competition, improve licence area sizes, prevent land banking activities, and capture data for the state's benefit. An example would be the Western Australian government proposal to include a land diversification lease under the *Land Administration Act 1997* for Crown Leases – however this model is yet to be tested and evaluated.

The PDI Act framework would continue to be the primary mechanism for development approval, with renewable energy projects able to apply for Crown sponsorship, which provides a simpler development assessment pathway (compared to the impact assessed pathway).

Under Option 2, consideration would need to be given to the appropriate mechanisms to deliver other recommended elements of an end-to end regulatory framework – including decommissioning and rehabilitation requirements, and a system to deliver benefits to the state. Further, consideration would be needed on the mechanisms to deliver an offshore renewables development framework – currently lacking from legislative frameworks.

Option 2 does not deliver a dedicated, expert, one window to government approach, as is currently provided under the PGE Act and the Mining Act for the resources sector. This

option would retain a framework approach with multiple transitions between responsible Ministers and agencies, and a lack of clarity about process. Hydrogen generation projects incorporating renewable energy generation would need to navigate concurrent development assessment pathways under different Acts. A project coordination function would likely need to be created within one of the responsible agencies to provide an end-to-end service to assist project proponents in navigating the regulatory framework.

OPTION 3: DEVELOPMENT OF A FIT FOR PURPOSE HYDROGEN AND RENEWABLE ENERGY ACT

Option 3 proposes the development of a Hydrogen and Renewable Energy Act, a dedicated legislative framework for all renewable energy and hydrogen development on South Australia's pastoral land and state waters.

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.

Adopting an end to end, 'one window to government' approach, a 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).

The Hydrogen and Renewable Energy Act is proposed to include:

- 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 on pastoral land and state waters 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.

Under option 3, the Pastoral Act would no longer regulate renewable energy developments on pastoral land, with the exception of domestic and residential scale projects.

Significant parts of our regulatory frameworks are functioning in the state's interest, including but not limited to, planning, conservation and safety legislation. Under this option, the Acts would be 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.

Option 3 will provide the government with 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. The introduction of a competitive and comprehensive framework across government-owned land and waters will provide certainty and consistency to developers, investors, and communities which will help position the state as a preferred location for renewable energy development and investment.

Under the proposed framework, DEM would apply its expertise in operating similar 'one window to government' frameworks to ensure the next phase of renewable energy development occurs in an orderly, government led manner that realises benefits to the entire South Australian community and the environment. Through a 'one window to government' framework, the HRE Act would exclude feasibility and exploration licence activities from the planning consent process under the PDI Act. DEM will instead provide the approval and assessment of feasibility activities once a feasibility licence has been granted to a proponent, consistent with similar low impact approvals under the Mining Act and PGE Act.

In order to assist freehold landowners through a renewable energy transition, DEM would develop guidance material for freehold landowners to help explain their rights as landowners, as well as exploring available dispute resolution mechanisms and information services to assist freehold land owners' negotiations with developers.

Design of a fit for purpose legislative framework also provides the opportunity for government to cost recover their services in administering and regulating the sector. A cost recovery model ensures there is no cost to the South Australian public in establishing and regulating a large-scale renewable energy and hydrogen sector. Consequently, cost recovery also ensures the regulation of a new and growing sector does not compromise the ability for government to deliver other critical services.

JUSTIFICATION OF NEW LICENSING FRAMEWORK

A Hydrogen and Renewable Energy Act (HRE Act) would introduce new regulatory requirements on all large-scale renewable energy on South Australia's pastoral land and state waters, however the government is of the view that new regulatory requirements for the sector

are justified as they will help unlock development on land representing 40% of the state and state waters. The benefit of a licencing framework is established below:

Access to pastoral land and state waters

Based on South Australia's long experience in regulating mining and petroleum industries, it is well understood that secure land access and community support are critical for successful projects.

A licensing framework providing land tenure is essential to allow access and development to occur on pastoral land and state waters, and to ensure a competitive process can be conducted with benefits delivered for all South Australians, Aboriginal people and the environment. Allowing access to pastoral land will unlock renewable energy development for 40% of the state's landmass, with some of the best coincident wind and solar resources in the state. Pastoral land has not previously been available to developers, resulting in an expansion of 40% of the state that can be developed. Further, state waters representing over 60'000 km^2 will be unlocked through a licensing framework, opening another untapped valuable resource for development. Combined, there is already more than $20 billion of development estimated for pastoral land and state waters, representing an enormous opportunity for the state and its people if it can be unlocked.

In recognition of an increase in regulatory burden and the recent findings of the SAPC, the Department for Energy and Mining will ensure the implementation of a HRE Act could streamline and reduce the regulatory burden of certain development stages for large-scale renewable projects under the Planning Code and PDI Act. There are areas that can be improved and streamlined to allow development applications to progress more quickly in early stages of investigation and feasibility.

De-risking projects through identification of Renewable Energy Priority Areas

Establishing a licencing framework for government-owned land and waters is also an opportunity to de-risk projects and investment decisions for developers, through the design and release of Renewable Energy Priority Areas (REPAs). In designing REPAs, government will identify the confluence of high-quality renewable resources, supportive communities, infrastructure corridors, appropriate land types, and Native Title organisations willing to host projects. By identifying suitable locations for renewable energy development upfront, and conducting a competitive process for land tenure, projects can have a level of risk removed from their proposals prior to commencing feasibility studies. This will allow proponents to have an increased level of security and certainty to progress their projects through investment decisions and development frameworks. Further, early work by government to seek consent and approval from Native Title organisations will save developers significant time and resources in their negotiations for agreements, a process that can normally take years.

Coexistence with existing land uses

South Australia supports multiple land use where possible, recognising the value in supporting rights for mining, agriculture, fisheries and aquaculture, tourism and other productive uses of land. A licensing framework under a HRE Act will establish a prescribed framework for managing multiple land uses on productive land, reducing the risk of conflicting uses and activities and preserving future rights.

The pre-competitive analysis to be undertaken by the government to establish Renewable Energy Priority Areas will ensure the most appropriate areas of pastoral land and state waters for renewable energy development are identified and released with the consent of the Native Title holders or claimants. This process will consider existing land uses, as well as environmental, heritage and cultural sensitivities.

Rehabilitation and decommissioning measures

Decommissioning of projects and the associated rehabilitation of land is a responsibility of project proponents to ensure land is restored to an acceptable standard once facilities have reached the end of their life. While planning conditions require a decommissioning and rehabilitation plan, there are no effective enforcement provisions or requirement for financial assurance. This imposes risks to landowners hosting projects, and ultimately the government that will be responsible for clean-up efforts should assets be stranded at any stage by developers.

While there are no documented examples of costs to decommission a contemporary wind turbine or solar farm in Australia, some published decommissioning plans have calculated costs that are approximately $400,000 per turbine, and up to $600,000 for larger turbines. To put these costs into perspective, the total fees earned for hosting a turbine for 25 years could be in the range of $250,000 - $750,000 (depending, typically, on the turbine capacity and when the wind farm commenced operations). It is therefore possible that the costs to decommission a turbine could be equal to or greater than the total income generated for the landholder over the lease period.

For the large-scale development proposed in the state, this represents an enormous potential cost if left to government to resolve. Introduction of licensing allows for the enforcement of decommissioning and rehabilitation measures as occurs in the resource sector, to protect landowners, the environment, taxpayers, and the government. DEM are investigating existing regulatory frameworks that can be leveraged to enable this across all land types and will work with co-regulators to further identify opportunities.

Protections for landowners

Licensing provisions will also provide new and updated protections to landowners during negotiation stages, as well as during construction and operation. Land access agreements, notices of entry, compensation, financial support for access to legal advice, dispute resolution mechanisms, transparent license conditions, and compliance activities will provide greater protections to landowners to preserve their rights and interests throughout a project.

Data Collection

The licensing framework proposed under the HRE Act would allow the government to collect and confidentially hold the valuable data captured by a developer during development and operation, building the state's data on renewable resources and supporting investment attraction.

4. What is the likely net benefit of each option?

South Australia has a projected investment potential of over $75 billion through hydrogen and large-scale renewable energy projects, before considering further investment opportunities unlocked such as value-added materials and processing. This investment has the potential to lead to larger flow on benefits for the South Australian community, its citizens, and the environment if the appropriate framework is established. Designing a framework that best unlocks this potential is central to government's ambition.

Due to the broad nature and complex interactions of the proposed reform options, it is difficult to conduct a quantitative cost benefit analysis of the proposed options. Instead, each reform option has been assessed against the objectives and principles of government action as outlined above and are considered in the context of impacts to individual stakeholder groups.

STAKEHOLDER IMPACTS AND NET BENEFIT OF OPTION 1: STATUS QUO

Under the status quo, there will be no additional regulatory costs however the objectives of government action will not be met. Access to pastoral land or state waters is unlikely to be facilitated under the current frameworks, leaving developers, communities, and the state unable to share in the projected over $75 billion of investment.

Further, freehold landowners will continue to lack resources and provisions to help navigate development on their land, leaving them disadvantaged in negotiations.

Finally, developers will continue to engage with a planning and regulatory system described as cumbersome, error prone, and difficult to navigate by the SAPC. Costs from inefficient and difficult to navigate planning systems will have a long-term impact on the investment potential of the state and limit the establishment of large-scale renewable energy and hydrogen sectors.

STAKEHOLDER IMPACTS AND NET BENEFIT OF OPTION 2: IMPROVEMENTS TO EXISTING REGULATORY FRAMEWORKS

A stakeholder impact analysis of Option 2 reveals a net benefit for industry, community, and the state however the benefit is constrained by the lack of a 'one window to government' framework. Further, Option 2 does not fully realise the objectives of government action in seeking to regulate the sector to achieve the required strategic outcomes for South Australia.

The stakeholder impact analysis outlines increased costs to government and the sector which are not significantly outweighed by the benefits.

Table 1. Stakeholder impacts of Option 2

Stakeholder group	Impact
Renewable energy and hydrogen developers	Renewable energy developers would benefit from improvements to existing regulatory frameworks, including changes to the Pastoral Act, however the lack of a one window to government framework would result in inefficient regulation and interactions with multiple government agencies. Regulatory costs to developers would increase, but without the benefits of streamlined regulation.
Landowners	Improving current regulatory frameworks would not improve protections afforded to freehold landowners, as decommissioning and rehabilitation requirements would remain insufficient and a risk to the land, and landowners would lack tools and support for negotiating with companies.
Native Title groups and Aboriginal communities	Native Title groups and Aboriginal communities may see benefits from projects hosted on their land, should agreements be reached. Amendments to current regulatory frameworks will not however be able to meet the government objective of supporting the early and ongoing participation of Native Title groups in regulating the sector and ensuring benefit sharing from development.
Environment	The state's environmental impact assessment framework would be retained under Option 2, with the planning and development processes responsible for mitigating and limiting impacts to the environment. Stakeholder consultation would be required to determine if the current environmental frameworks were fit for purpose in light of the increasing footprint of renewable energy and hydrogen projects in the state.
Communities	Changes to the Pastoral Act would likely result in the state securing some new investment, and a competitive process for access to pastoral land would provide some flow on benefits to communities. It is likely however the scale of investment is reduced as the state would not be adopting a best practice regulatory framework, thereby reducing the potential benefit shared with communities. Option 2 would not result in a framework for the development of offshore wind, further reducing investment potential for the state.

Mining	Amendments to the Pastoral Act could consider multiple land use frameworks and interactions with the mining sector, which would provide greater certainty and protection of existing rights.
Agriculture and fisheries	Similar to mining, amendments to the Pastoral Act could consider multiple land use frameworks for the coexistence of pastoralism activities. However, without a dedicated framework for offshore wind there are few mechanisms available that can consider marine spatial planning and the impact of offshore wind developments on aquaculture and fisheries activities.
Pastoralists	Pastoralists would benefit from amendments to the Pastoral Act, as they could derive income streams and appropriate compensation from renewable energy activities.
Government	Government would benefit from renewable energy development occurring on pastoral land, however without a dedicated framework and 'one window to government' approach the government will not be able to derive the maximum benefit for the public from the renewable energy transition. Without a licensing framework for decommissioning and rehabilitation, the state could also be responsible for the clean-up of stranded assets, at a forecast $400,000- $600,000 per turbine. Without a dedicated offshore framework, embedded benefit sharing and Aboriginal involvement and cost recovery models, the government will invest significant cost to implement without receiving adequate benefits for the state.

STAKEHOLDER IMPACTS AND NET BENEFIT OF OPTION 3: HYDROGEN AND RENEWABLE ENERGY ACT

A stakeholder analysis of Option 3 reveals the greatest net benefit for developers, communities, the environment, and the state while delivering a 'one window to government' framework'.

The stakeholder impact analysis outlines increased costs to government and the sector, however the costs are outweighed by the benefits that are achieved through the Hydrogen and Renewable Energy Act.

Table 2. Stakeholder impacts of Option 3

Stakeholder group	Impact
Renewable energy and hydrogen developers	A Hydrogen and Renewable Energy Act (HRE Act) will support renewable energy developers by providing a leading practice 'one window to government' framework, and competitive

	process to assign access to some of the state's most prospective areas for renewable energy development. Clear processes and conditions, along with clear guidelines and policies will provide security of tenure, facilitating investment decisions and allowing projects to commence and progress through the development pipeline. The REPA process on government-owned land and waters, representing 40% of the state's landmass, will identify high-quality, appropriate land that will de-risk projects and deliver greater investment certainty through early work done by government. Government predicts there is over $20 billion of investment slated for development on pastoral land and state waters that a HRE Act will unlock. Renewable energy and hydrogen developers will be impacted by the introduction of new licences, with fees and charges to be included. The licences are necessary for the appropriate cost-recovered regulation of the sector, and overall will provide greater benefits and project certainty to developers than without the framework in place.
Landowners	Landowners will benefit from the HRE Act through improved dispute and land access mechanisms and support for negotiations with developers, along with income streams from development. Landowners will be protected by decommissioning and rehabilitation provisions, ensuring productive land can be restored at the end of a facilities life.
Native Title groups and Aboriginal communities	A HRE Act will deliver Aboriginal advancement and autonomy to communities across South Australia, as benefits from projects will flow into communities and groups will have a formalised role in regulating and developing the sector that aligns with their priorities and interests. These principles align with the state's commitment to a Voice to Parliament and Treaty.
Environment	Under a HRE Act, the government would enshrine a net environmental benefit requirement into the Objects of the Act. This would ensure that projects minimise the impacts on the state's natural resources (e.g. parks, native vegetation, biodiversity, water) and provide a spatial and temporal benefit to the environment. 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.
Communities	Communities across South Australia will benefit from a HRE Act, with regional projects set to dominate the next three decades of projects. A competitive licensing framework will allow government to design a process that ensures benefits to local communities and workforces are considered in the competitive process for access to state-owned land, while provisions for net environmental benefits will protect local environments.
Mining	The introduction of a multiple land use framework under the HRE Act will protect mining and exploration rights in South Australia as the renewable energy and hydrogen sectors grow. The Act will clearly define the interactions between land uses and include a resolution mechanism for disputes on state-owned land. It is intended guidelines are produced that assist industry in their interactions and rights with other land uses.
Agriculture and fisheries	Agriculture and fisheries will also be protected through a land use framework under the HRE Act, ensuring productive land and seas can coexist with large-scale renewable development. It is intended guidelines are produced that assist industry in their interactions and rights with other land uses.
Pastoralists	Pastoralists will benefit from the introduction of a HRE Act, as they will have certainty and protection for projects occurring on their lease. A HRE Act will introduce a standardised compensation mechanism and income stream and remove the burden of multiple developers approaching pastoralists seeking agreements. Further, licence conditions and a competitive process will ensure only proponents willing to embrace co-existence, net environmental benefits, and community benefits will operate on their lease ensuring the land is protected throughout development.
Government	Government will benefit from a HRE Act by unlocking the pipeline of renewable energy and hydrogen investment, securing benefits for all South Australians, achieving further emissions reductions, and establishing a competitive and value-added new industry for a net zero world. The state will continue to be an attractive investment destination for renewable energy and hydrogen developers, supported by a fully cost-recovered regulatory framework, resulting in no cost to the taxpayer. A cost recovery model will also assist in appropriately resourcing co-regulators to facilitate

	streamlined assessment processes, as currently occurs under the Mining Act and PGE Act.

SUMMARY OF ASSESSMENT OF OPTIONS AGAINST OBJECTIVES

Table 3 below compares the different options considered and assesses them against the government objectives and principles outlined above.

This tool is helpful in comparing the different options directly and to determine whether a combination of options would achieve the desired outcomes.

Table 3. Summary of assessment of all options against objectives

	Option 1: Status quo	Option 2: Improvements to existing regulatory frameworks	Option 3: Hydrogen and Renewable Energy Act
Deliver investment certainty and security, and unlock the pipeline of renewable energy projects	✗	?	✓
Catalyse development of the state's hydrogen sector and support delivery of the Hydrogen Jobs Plan	✗	✓	✓
Support multiple and sequential land use (including coexistence with native title, mining, petroleum, agriculture)	✗	✗	✓
'Lift the bar' to maximise the benefits to all South Australians, Aboriginal people and the environment	✗	✗	✓
Provide a nation-leading, one window to government approach for renewable energy development	✗	✗	✓

5. Who was consulted and how was their feedback incorporated?

The Department for Energy and Mining has conducted three stages of consultation on options for government reform: an internal to government process, an Aboriginal and Native Title process, and a public process. Stakeholder engagement plans were developed at the beginning of the project to accurately identify the key stakeholders to engage with, as well as the key methods and timings to engage most effectively with each group.

Consultation set out to establish an evidence base on the best approach to remove regulatory barriers for renewable energy and hydrogen development, while protecting the interests of the environment, communities, and government.

Consultation is an ongoing process through design and implementation of a regulatory framework, with DEM establishing a solid foundation on which to build relationships and further constructive consultation upon.

INTERNAL GOVERNMENT CONSULTATION

The internal government process was conducted for a period of four weeks in September 2022, and involved meeting with individual government agencies, departments, and committees to present on options for reform, including a preferred pathway. DEM hosted over 20 meetings with government agencies, providing presentations and seeking discussion and comments on proposals. An internal paper was also circulated seeking comments and feedback on the options for reform.

Feedback was received from across government, indicating widespread support for the project. Government agencies understood the need for government regulation and intervention and agreed on the objectives of government action. DEM worked with key regulators such as the Department for Environment and Water (DEW), Planning and Land Use Services (DTI-PLUS), Department for Infrastructure and Transport (DIT), Office of the Technical Regulator (OTR), and the Essential Services Commission of South Australia (ESCOSA).

Feedback from all agencies and officials helped shape a discussion paper which was subsequently released for public consultation.

SOUTH AUSTRALIAN ABORIGINAL RENEWABLE ENERGY FORUM

Following internal government consultation, the government hosted the inaugural South Australian Aboriginal Renewable Energy Forum (SAAREF). Hosted over two days SAAREF was a workshop that brought together Aboriginal groups to strengthen relationships, understand the issues and challenges impacting on Aboriginal groups and to discuss opportunities for Aboriginal people and government to work together on the development of renewable energy in South Australia.

The government shared their intent to work in partnership with Native Title and Aboriginal landholder groups that are interested in hosting hydrogen and renewable energy projects on their land, and work with other traditional owners to respect their rights and interests.

Attendees to SAAREF were provided with a draft Issues Paper and were invited to consider the document and provide feedback and input. Government committed to continuing the conversation and hosting further forums to continue discussing the development of renewable energy and hydrogen in South Australia.

PUBLIC CONSULTATION

In November 2022, DEM launched public consultation on the Hydrogen and Renewable Energy Act Issues Paper (the Issues Paper). The Issues Paper presented the opportunity in developing a large-scale renewable energy and hydrogen sector, while describing regulatory barriers the state is currently experiencing. The Issues Paper proposed a 'one window to government' framework for all large-scale renewable energy and hydrogen projects in the state, unlocking land access to pastoral land and state waters, ensuring benefit sharing with communities, and end to end licensing to support economic, environment, and community outcomes.

Public consultation was conducted over a three-month period, using a combination of YourSAy surveys and forums, targeted stakeholder meetings, 8 regional roadshows, and online webinar and Q&A. Throughout consultation, department officials met with organisations representing a cross-section of industry, community, professionals, and interest groups. The consultation process elicited 82 responses, including 69 written and emailed submissions and 13 YourSAy responses. The YourSAy page was viewed 700 times, with the Issues Paper downloaded 160 times.

Feedback was overwhelmingly supportive of the proposal, with stakeholders largely welcoming a dedicated framework for renewable energy and hydrogen development in the state. Many of the submissions sought further detail relating to the operation of the proposed framework, with much of this detail to be determined and consulted on through the process of developing a draft bill in 2023. The following key themes raised through consultation were relevant to the overall structure of the framework and in some cases have led to re-shaping of the policy:

PASTORAL LAND ACCESS AND COMPETITIVE PROCESS

Feedback: Feedback received from both pastoralists and renewable energy developers was supportive of the introduction of an orderly, competitive process for determining access to pastoral land. Pastoralists reported the current system of dealing with multiple developers is costly and time intensive and welcomed a framework that streamlined the process. Similarly, developers were supportive of a framework that could deliver investment certainty and security to their projects.

Feedback indicated pastoralists would like to have prescribed consultation processes in a framework when determining Renewable Energy Priority Areas (REPAs) and granting of licences, to ensure impacts to pastoral activities and their views as primary users of the land are considered in the process. Further, pastoralists want to ensure their existing rights are not compromised through development of large-scale renewable energy and hydrogen projects, and the land is protected throughout the process.

While supportive of a REPA process and competitive tenure system, renewable energy developers would like to be involved in the design of a REPA to ensure alignment with industry interest and priorities. Developers would also like to see existing engagement activities and agreements with pastoralists taken into consideration when conducting a competitive tenure process.

Outcome: DEM is investigating the consultation requirements and criteria to be prescribed under the Act for both the REPA and licensing stages to determine the role of pastoralists in the process. DEM will work with key stakeholders to further determine the involvement of pastoralists in the processes, including how to protect their rights and interests.

DEM will use a variety of information and data to inform the design of REPAs, including through industry and community engagement. Consultation on the design of REPAs will continue through development of the Act to ensure a streamlined implementation of the process. Similarly, DEM will continue to consult on the competitive criteria applied to the licensing process to ensure alignment with government objectives.

In response to feedback, DEM has worked closely with the Department for Trade and Investment (Planning and Land Use Services (DTI-PLUS)) to investigate options to further streamline the framework. To provide one window to government benefits and reduce red tape, the HRE Act is proposed to exclude feasibility and exploration licence activities from the planning consent process under the PDI Act, and instead provide the assessment and approval under the HRE Act.

FREEHOLD LAND

Feedback: Feedback received from renewable energy developers and industry bodies did not support the introduction of licences on freehold land. Industry shares the view that South Australia's current processes for renewable energy development are working well on freehold land, evidenced by the success of the state in reaching 70% renewable energy production. Industry is not clear on the purpose of a new licensing framework for freehold land and is concerned the framework will unnecessarily increase the regulation of the sector, making it harder to develop projects and negatively impacting the investment potential of the state. Co-regulators in the sector also shared the view that a HRE Act may be duplicating some areas of existing regulation on freehold land, without providing clear benefits to stakeholders.

Freehold landowners did support the introduction of licensing as a tool to provide greater regulation to activities that occur on their land, including the preservation of their rights and interests in the land, and the decommissioning and rehabilitation requirements. Landowners

also called for greater support to assist in their negotiations with developers, and the management of development on their land.

Outcome: Providing a consistent regulatory framework for equivalent projects across government-owned and freehold land is important for clarity and efficiency, however the government needs to be certain the costs of new regulation do not outweigh the benefits. In regard to freehold land, it is not yet clear there is a case for increased regulation in a system that has been operating well.

Considering stakeholder feedback, the proposal has been amended to exclude freehold land from the renewable energy licensing framework at this time, with the government committing to reviewing the framework after two years to re-evaluate a need for licensing on freehold land. Hydrogen generation facilities will still be subject to licensing on freehold land, however only for the hydrogen generation facility, and not any supporting renewable energy infrastructure.

To protect landowners and government however, financial assurance mechanisms for the decommissioning of projects will still be required for all renewable energy projects across all land types. DEM are investigating existing regulatory frameworks that can be leveraged to enable this and will work with co-regulators to further identify opportunities.

Freehold landowners still identified a need for greater support measures when in negotiation with developers, so DEM will develop guidance material to further explain their rights as landowners, as well as exploring available dispute resolution mechanisms. DEM is also investigating extending the Landowner Information, a government-funded independent information service relating to the Mining Act, to include hydrogen and renewable energy development. DEM is pursuing this opportunity, subject to necessary government approvals.

ABORIGINAL AND NATIVE TITLE CONSIDERATIONS

Feedback: Aboriginal stakeholders provided feedback that the government must change frameworks to enable self-management and self-determination. Suggested changes included:

Express objects should be included in the HRE Act to recognise and respect Native Title and Aboriginal heritage, and associated benefits and rights.

Decision making for issuing of licences must be collaborative between Government and Traditional Owners. Native Title holders should ultimately be able to determine whether any area of their Native Title land is determined to be a Renewable Energy Priority Area (REPA).

REFLs should not create any exclusivity, allowing multiple proponents to simultaneously undertake feasibility activities in any REPA. Native Title negotiations should inform a competitive selection process.

If agreement is not able to be reached, the native title rights and interests should not be able to be compulsorily acquired by the Crown or an instrumentality of the Crown.

Outcome: Further consultation is scheduled with Aboriginal stakeholders at the second South Australian Renewable Energy Forum (SAAREF) on 19-21 March 2022. The forum will continue discussions on the development of the Act, including identifying solutions to the issues raised during consultation.

ENVIRONMENTAL PROTECTION

Feedback: Feedback received from the environmental protection and conservation sector was broadly supportive of the HRE Act framework, however sought greater protections for local environments and biodiversity throughout the state in response to development. Many groups acknowledged the broad environmental benefits of developing a large-scale renewable energy and hydrogen sector, however noted this development could not come at the expense of local biodiversity and habitats.

Outcome: 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 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.

DEM will investigate how to best incorporate environmental benefits into the Objects of the Act, to ensure the definition fits within the state's broader environment legislation and informs responsible development of the sector. DEM will also consider how the selection criteria for REPAs and competitive access to government-owned land can consider and appropriately weight local environmental benefits provided through projects. Ongoing consultation with relevant regulators and environmental groups will further inform these principles.

PROVISION OF DATA

Feedback: Feedback from renewable energy developers indicated a strong opposition to providing commercial resource data to the government, citing intellectual property concerns. As the government does not own the resource as in mineral or petroleum resources, developers consider the requirement to relinquish data to be a regulatory overreach.

Outcome: In response, DEM is proposing to hold data confidentially for the life of the licence, with data only published at the expiry of a licence, with the permission of the licensee prior to licence expiration, or in aggregate with no identifying information.

6. What is the best option from those considered?

The South Australian government considers that the most effective means of removing regulatory barriers and unlocking investment and development in large-scale renewable energy and hydrogen is through Option 3: A Hydrogen and Renewable Energy Act.

Through considered analysis, community consultation and feedback, a Hydrogen and Renewable Energy Act is the most appropriate regulatory tool to establish a competitive renewable energy industry on pastoral land and state waters that delivers benefits for all South Australians, helps decarbonise the state's economy, and drives investment and development across the state.

A Hydrogen and Renewable Energy Act will unlock the billions of dollars in investment on the state's pastoral land and state waters, deliver early engagement and consent provisions for Native Title groups, enable benefit sharing with Aboriginal communities, and provide protections and security to the environment, communities, and landowners. Developers will be able to operate in South Australia with security of tenure and be provided a streamlined 'one window to government' framework that will facilitate approvals and conditions in a timely and efficient manner.

While challenging to fully quantify, a Hydrogen and Renewable Energy Act represents the greatest benefit to all stakeholders which has been confirmed through rigorous public consultation and feedback, and assessment of stakeholder impact in Table 3 above. The principles outlined in the Issues Paper will inform the development of a draft Bill.

7. How will the chosen option be implemented and evaluated?

Further engagement will be undertaken to seek feedback on a draft Bill. It is anticipated this will commence in late March 2023, for a period of 4-6 weeks. The consultation on a draft Bill will be an opportunity for stakeholders to observe how the feedback on the Issues Paper has shaped the drafting of the Bill, and further understand the detail in the proposal.

Subject to the passage of the Hydrogen and Renewable Energy Bill, the implementation of the proposed legislation is subject to the challenges outlined below.

IMPLEMENTATION CHALLENGES

The South Australian Government is proposing the Bill will be introduced to Parliament by mid-2023, with facilitation of processes in the Act to take place as soon as practical following commencement.

Prior to this, DEM would continue to undertake a range of consultation with other government agencies, Aboriginal peak organisations and Native Title groups, relevant communities, and potentially affected stakeholders to ensure an effective implementation process.

Concurrent to this process, DEM is commencing work to support the development of elements of the framework to ensure developers are able to seek licences in a timely manner. This includes:

- Development of Regulations, policies and guidance material to support the commencement of the Act.
- Establishment of the regulatory function within the Department for Energy and Mining.
- Identification of potential Renewable Energy Priority Areas (REPA), with accompanying criteria for competitive processes and licence terms and conditions.

Critical to releasing REPAs is establishing agreements with Native Title holders who have rights and interests in the land. The government will continue to build relationships with South Australia's Aboriginal communities to identify areas of the state that are prepared to host renewable energy and hydrogen activities. The appropriate mechanisms to facilitate agreement with Native Title holders and Aboriginal people will be determined on an individual basis to ensure communities rights and interests are protected throughout the process. The government has committed to working with Native Title and Aboriginal groups throughout this process to facilitate outcomes important to each community.

Implementation of the Act will also require existing operators and project proponents to meet new decommissioning requirements, including financial assurance mechanisms which DEM is investigating. Transitional provisions will be outlined to ensure this happens in an orderly manner that recognises existing projects, and those with existing development applications undertaken by proponents.

EVALUATION

The success of the Hydrogen and Renewable Energy Act will be measured by the Act's ability to deliver the government objectives of the project. Unlocking development and investment on the state's pastoral lands and state waters will be a short-term measure of success for the framework, as will the implementation of the 'one window to government' approach. Continuing the state's journey towards 100% net renewables by 2030 will be realised in the short to medium-term, likely providing useful insight into the effectiveness of the framework to deliver net zero ambitions by 2050.

Other government objectives are more likely to be realised in the medium to long-term, such as lifting the bar to maximise the benefits to all South Australians, or catalysing development of a globally significant hydrogen sector. Tracking of investment and project development in the state will provide an indication of investor and community sentiment towards the framework.

To remain competitive in a global environment, the government will regularly evaluate the operation and effectiveness of the framework and will update the framework as needed to achieve the outcomes.

A legislated review timeframe could be considered as one option, with an initial review after two years already identified as means to review the operation and scope of the framework

Further information

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