

# Transitioning from the *Planning, Development and Infrastructure Act 2016*

# 005

## Approval pathways for renewable energy and hydrogen generation activities

### Introduction

With the commencement of the *Hydrogen and Renewable Energy Act 2023* (HRE Act) and *Hydrogen and Renewable Energy Regulations 2024* on 11 July 2024 certain activities previously authorised and regulated under the *Planning, Development and Infrastructure Act 2016* (PDI Act) will now be regulated under the HRE Act.

These activities include the construction, operation and decommissioning of:

- hydrogen generation facilities
- renewable energy infrastructure (above 5MW nameplate capacity)
- associated infrastructure (such as hydrogen power plants, port facilities, energy storage systems, storage infrastructure)
- as well as feasibility activities, and the generation, storage and transmission of renewable energy (above 5MW nameplate capacity).

This information sheet provides an overview of the licensing and approval pathways for regulated activities transitioning to the HRE Act. If the transitioning development is a battery energy storage system, refer to **HRE Act Information Sheet 002**.

The pathway followed will depend on the approval status of the development under the PDI Act at commencement of the HRE Act.

Refer to the following sections to determine which pathway applies to your circumstances and the key requirements under the HRE Act. Pathway 1 and 2 are modified approval pathways that recognise the assessment and approvals already obtained or being obtained under the PDI Act.

The relevant licence type required under the HRE Act will depend on the nature of the proposed activities. The relevant licence types you can get under the transitional provisions are:

- HGL - hydrogen generation licence
- REFP - renewable energy feasibility permit
- REIL - renewable energy infrastructure licence
- AIL - associated infrastructure licence

If you hadn't lodged an application under the PDI Act before the HRE Act commenced, you don't qualify under either of the transitional pathways and a new application will be required under the HRE Act for your activity. Refer to other published information sheets for the one that addresses the licensing and approvals for your particular circumstances.

The two pathways are:

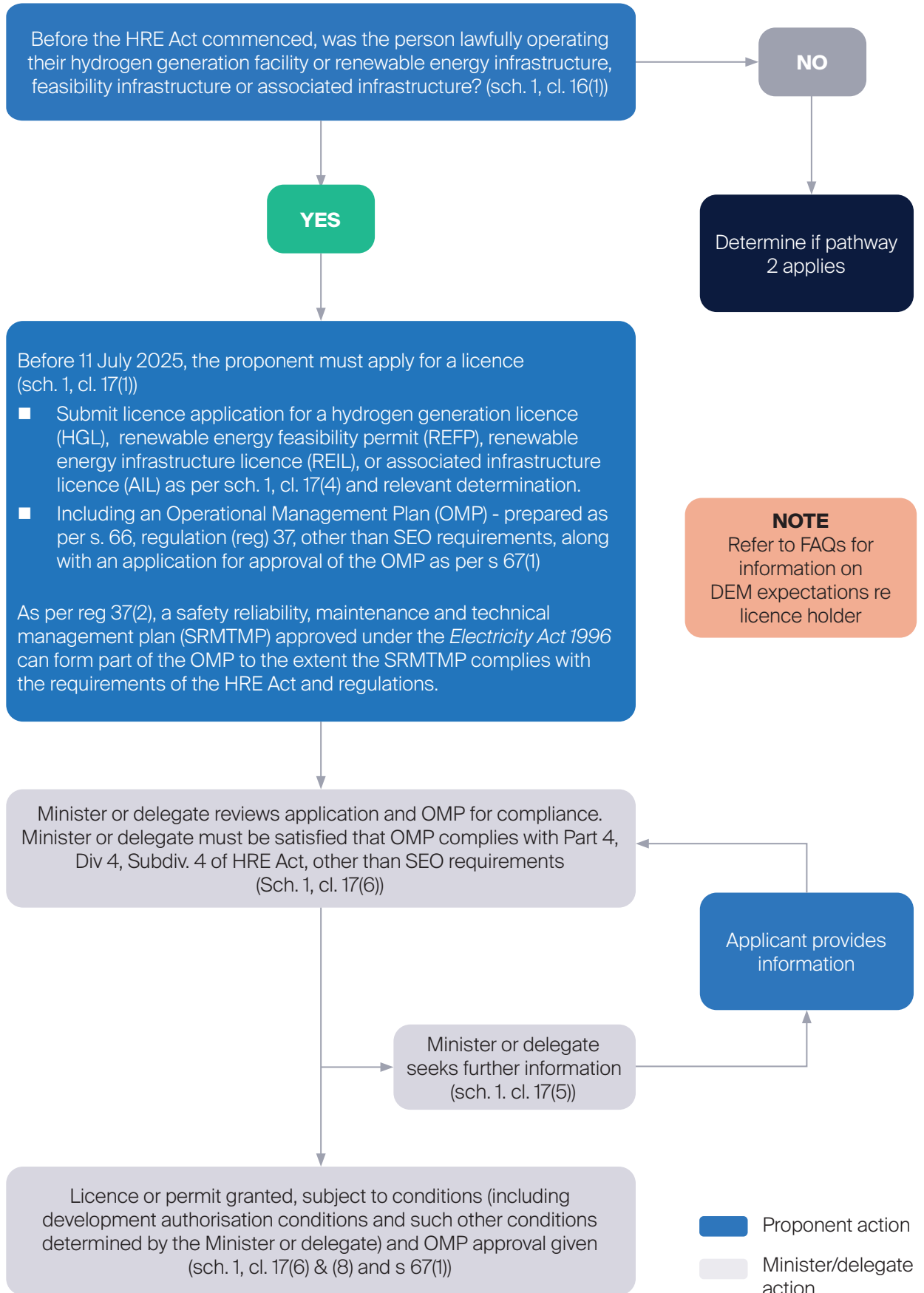
#### **PATHWAY 1 – TRANSITIONAL - EXISTING OPERATOR**

Lawfully commenced activities authorised under the PDI Act at commencement of HRE Act

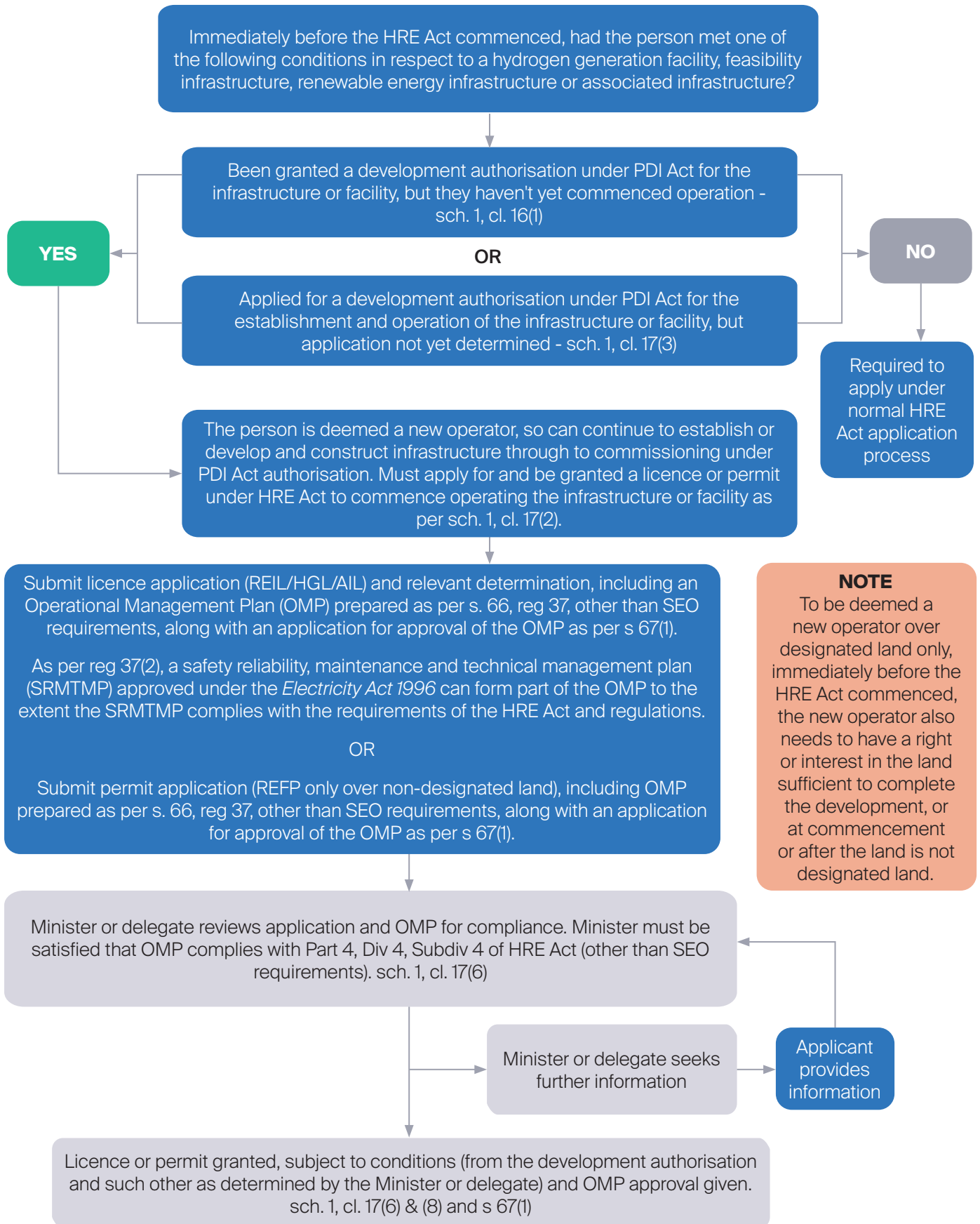
#### **PATHWAY 2 – TRANSITIONAL – NEW OPERATOR**

Development activities either under assessment under PDI Act or had obtained development authorisation, but yet to lawfully commence operations at the commencement of the HRE Act

## Pathway 1 – Transitional – Existing Operator



## Pathway 2 – Transitional – New Operator



# FAQ

## Making an application

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

## Applicant transitional licence – existing operator

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

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

## Determinations

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

Determinations have been created detailing specific requirements for:

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

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

## Checklists

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

## Further information, lodgement and reporting

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

**DEM Energy Resources Licensing:** [DEM.ERDLicensing@sa.gov.au](mailto: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](mailto: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](http://www.energymining.sa.gov.au/industry/hydrogen-and-renewable-energy/hydrogen-and-renewable-energy-act)

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



## Acknowledgement of Country

As guests on Aboriginal land, the Department for Energy and Mining (DEM) acknowledges everything this department does impacts on Aboriginal country, the sea, the sky, its people, and the spiritual and cultural connections which have existed since the first sunrise. Our responsibility is to share our collective knowledge, recognise a difficult history, respect the relationships made over time, and create a stronger future. We are ready to walk, learn and work together.