Government of South Australia

Department for Energy and Mining

Environmental liability management policy consultation feedback

Hydrogen and Renewable Energy Act 2023

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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, its 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.

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Introduction

The *Hydrogen and Renewable Energy Act 2023* (the Act) regulates large-scale hydrogen and renewable energy projects across South Australia.

Consistent with best practice regulation, the establishment of an environmental liability management policy supports the management of risks related to environmental rehabilitation liabilities that may arise from activities licenced under the Act.

There is a risk that end of life, or uneconomic hydrogen and/or renewable projects may be abandoned, leaving the state or landholders liable for project decommissioning or environmental rehabilitation costs.

To support the operation of the Act and protect the state from these outcomes, the Department for Energy and Mining (the department) developed the draft *Environmental Liability Management Policy* (proposed Policy). Consultation was held during the second half of 2025 and feedback was sought on the policy design, policy operation and the framework for financial assurance requirements.

The consultation attracted a moderate level of engagement from interested stakeholders.

What we heard

The consultation sought feedback on six specific questions across three broad areas:

1. Policy framework
2. Policy operation
3. Policy clarity

The consultation primarily sought to engage stakeholders on the design which has been largely based on regulatory principles that are consistent with the department's management of a broad and diverse portfolio of environmental and decommissioning liabilities across the state, including under the *Mining Act 1971* and *Energy Resources Act 2000*.

This report summarises feedback received through the consultation, highlighting key themes raised by stakeholders. Analysis of stakeholder feedback identified opportunities to refine the proposed policy and incorporate feedback, where appropriate, to ensure the policy is fit for purpose.

	What we heard	Our response
Policy Framework		
Design	Stakeholders recognised that the framework provides a standardised approach to assessing financial assurance requirements to meet the objectives of the proposed policy. Stakeholders also broadly agreed that the proposed policy application to non-designated land is appropriate. One stakeholder expressed that the approaches and methodologies under the proposed policy, designed principally for rehabilitation and decommissioning, may not be suitable for a bond required under s43(1)(a) of the Act to ensure any civil or statutory liability incurred while undertaking authorised operations will be satisfied.	The department recognises and thanks stakeholders for their feedback on the proposed policy. In agreement with feedback, the scope has been adjusted to target risks associated with present and future rehabilitation obligations from authorised operations. Any bond requirement for any civil or statutory liability likely to be incurred while undertaking authorised operations will be considered as a separate matter.
Policy Operation		
Financial Security Requirement Matrix	One stakeholder found it challenging to provide feedback on the application of the *Financial Security Requirement Matrix* and the potential impact it may have on project development or the financial viability of industry in the absence of the proposed *Rehabilitation Liability Estimate (RLE) calculator*, as well as a clear outline and detail of the financial rating assessment process. Another stakeholder suggested a revision to the matrix to remove the requirement of financial security during the construction phase of the project, to allow sufficient time for project finance to amortise and instead require financial security at a later project stage, e.g. at year 10 of the project.	The development of the RLE calculator is now complete and available from the department's website. Financial rating assessments will be undertaken using publicly available information e.g. credit rating of the licensee if available, financial information, as well as market tools available to the department. The department recognises that in some cases, there will be a need to return to the licensee for further information to complete the assessment. Not requiring any financial security until a project has substantially progressed operation would expose the state to an unacceptable level of risk. It would also be inconsistent with longstanding requirements under the Mining and Energy Resources acts.

What we heard		Our response
	The stakeholder also suggested for the proposed policy to allow recognition of a change in a project's life cycle stage following substantial refurbishment or repowering (i.e. operating life extension), subject to other conditions being met.	The department considers that the proposed risk-based approach appropriately balances financial security requirements with the risk of a need to drawdown on a bond to undertake decommissioning and/or rehabilitation work. The approach is reflective of the progressive disturbance for a project. Recognising that there may be instances where a project's work program is varied and the operating life cycle could be extended considerably, the proposed policy allows for a bond review where a work program variation is approved.
Rehabilitation Liability Estimate	One stakeholder highlighted that every project will be different (terrain, geography, remoteness, etc.) and as such, a standardised RLE calculator may not be the preferred approach. To the extent that a licensee disagrees with the calculated RLE, a pathway to dispute resolution should be made available.	The RLE calculator has been developed by independent industry experts with extensive experience in facility decommissioning planning and remediation to facilitate site closure and liability management. The RLE calculator has been designed to incorporate a broad range of rehabilitation components and associated activities. Sufficient flexibility has been incorporated, allowing licensees to nominate alternative activities and rates that may be applicable to their operation. The department will need to verify if alternative activities or unit cost rates are proposed. Periodic reviews of the RLE calculator will be undertaken to ensure it remains fit for purpose and sufficiently up to date.

What we heard		Our response
Bond and Security	Whilst stakeholders recognised that the acceptable forms of security proposed are standard for the industry and therefore largely appropriate and attainable, one stakeholder raised concerns around the ability of some licensees to obtain a bank guarantee and/or surety bonds with no end date. It was suggested that alternative options may need to be considered e.g. allowing instruments with an end date, so long as the instrument held is always up-to-date. Conflicting feedback was received on the potential use of a parent company guarantee as an eligible form of financial security. One stakeholder suggested the removal of bond requirements where an investment grade parent company has guaranteed decommissioning and rehabilitation liability. On the contrary, another stakeholder does not consider a parent company guarantee as an acceptable form of security as there are limitations to the usefulness of such instrument. The 'Bond use' section was considered to be too broad. Stakeholders expressed that a bond should only be called upon for decommissioning and rehabilitation activities and only where the licensee has failed to carry out its decommissioning obligations.	Whilst acknowledging the concerns raised, the department has elected to maintain the current acceptable forms of security. This is consistent with global best practice and the management of environmental liabilities under the *Energy Resources Act 2000* and the *Mining Act 1971*, and ensures continuous, uninterrupted security that remains active until all environmental obligations are fully met. It should be noted that the proposed policy also accepts cash as a form of security. The presence of a parent company guarantee, or third-party indemnity agreement, will be considered on a case-by-case basis as part of the Department's assessment of a licensee's financial rating. The department notes that most leading practice jurisdictions are moving away from the acceptance of parent company guarantees as a valid form of financial security. As outlined above, the proposed policy scope has been refined, and bonds would only be called upon or expended by the Minister to complete any unmet present and future rehabilitation obligations in an area disturbed by authorised operations or in rehabilitating any area disturbed by authorised operations.

	What we heard	Our response
Policy Clarity		
General	Some stakeholders requested additional guidance in the proposed policy to provide clarity on its application, including: • the matters which would inform whether a bond is required at all under the Act • defining rehabilitation and decommissioning requirements (extent/scope) • timing and/or trigger for bond requirement, particularly prior to operations • any requirement for a provider of a bank guarantee or insurance bond to hold a minimum credit rating.	In acknowledging the proposed policy would benefit from greater clarity, additional guidance has been incorporated into the proposed policy addressing issues raised by stakeholders. The setting of a bond by the Minister under section 43 of the Act provides a surety mechanism to protect the state from the risk that hydrogen and renewable energy projects may be abandoned, resulting in the state or landholders being liable for project decommissioning and rehabilitation costs. Any licensee seeking to undertake operations under the Act, will be required to provide a bond in line with the proposed policy. Decommissioning and rehabilitation requirements will be in line with a licensee's approved statement of environmental objectives and operational management plan. Section 44 of the Act requires a licensee, in accordance with the requirements of the regulations, to notify the Minister in relation to the commencement of authorised operations in the licence area. This will be the point at which a bond would be required by. Consistent with the department's existing policies, the issuer of a bank guarantee or insurance bond is required to be an Australian Prudential Regulation Authority regulated entity that maintains a S&P Global, or equivalent, credit rating of 'A-' or above.

What we heard		Our response
Non-designated land	Some stakeholders sought additional guidance on the key elements which would need to be included in any agreement with non-designated landowners to be considered satisfactory, including whether there are any expectations that such agreement is commensurate with the financial security requirements for designated land.	The department has developed guidelines on the issues licensees and landowners should consider when entering into agreements. The parties should get independent and suitably qualified legal and financial advice about their rights and obligations before entering into agreements. View HRE guidelines 007 *Agreements for decommissioning on non-designated land*

Next steps

Incorporate stakeholder feedback into the proposed policy where appropriate. Undertake final consultation in May 2026 and publish final policy on the department's website in July 2026.

Policy to commence operation from August 2026.

Further information

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