

10 February 2023

Mr Michael Malavazos
Director, Engineering Operations
Energy Resources Division
Department for Energy and Mining

Via email: DEM.Legislation@sa.gov.au

Dear Mr Malavazos

The South Australian Chamber of Mines and Energy (SACOME) is the leading industry association representing the resource and energy sector in South Australia, the powerhouse of the State's economy.

At the outset, SACOME wishes to emphasise our members' commitment to decarbonisation and achieving Net Zero, which is reflected in our [Climate Change Policy](#). SACOME welcomes the opportunity to comment on the Issues Paper prepared for the purposes of consulting on the proposed *Hydrogen and Renewable Energy Act*, and thanks the Department for their positive and constructive engagement on this reform.

To inform SACOME's submission, we have consulted affected member companies, noting there was a plurality of views among the membership.

SACOME broadly welcomes the policy intents of the proposed Act, including to streamline the licensing process and operate as a 'one window to Government', and to treat energy projects on a level playing field.

SACOME also particularly notes the reference in the objects clause to 'establishing appropriate processes and mechanisms to facilitate multiple and sequential land use outcomes', which SACOME and its member companies strongly support.

Our feedback concerns the following issues, noting this is general in nature and will necessarily change depending on the draft Bill produced for consultation:

- Regulatory framework needs to be simple;
- Need for an agnostic approach for potential hydrogen projects;
- Data reporting obligations; and
- Decommissioning requirements.

Regulatory framework needs to be simple

SACOME supports the intent of the Government to offer a 'one window to Government' for the purposes of licensing and regulation; however, notes this may be difficult to satisfy in all circumstances. Some members have queried why these reforms are not included under the auspices of the revised *Petroleum and Geothermal Energy Act*, to be entitled the *Energy Resources Act*, for simplicity and to ensure consistent treatment among other regulated substances as was originally proposed. There is much weight to this argument.

There are material benefits for providing a clear, defined licensing structure for hydrogen and renewables projects, and to treat all energy sources consistently. In the absence of a Bill, it is hard to comment meaningfully as to whether this objective has been achieved. SACOME notes the objects clause of the proposed Act is very broad and enumerates certain aspirations. While the inclusion of this is the prerogative of the Minister, it may be to the detriment of a simple regulatory framework or it may be the case that certain aspirations are omitted.

It is the view of some members that licensing on freehold land is neither necessary nor appropriate and would only be regarded as red tape that would deter investment; this is especially the case when investment becomes more competitive as Eastern states seek to accelerate their energy transition.

The potential for duplicate licensing and compliance work has also arisen, with the following examples proffered:

- Having to satisfy the requirements of the ESCOSA generation licence
- The reference to 'net environmental benefits' in the proposed objects clause, noting that environmental impacts are already managed under various State and Commonwealth Acts

The Government's licence fee structure is predicated on cost recovery; however, in the absence of further detail as to what this entails it is difficult to conclude whether the fees would be reasonable. Renewable energies are viewed by Government not only as a

growth industry, but our history and success with the same is viewed as a point of differentiation with other states. It would be unfortunate if the proposed fees were to act as a disincentive to continued investment and innovation, with the beneficiaries being other Australian jurisdictions.

In respect of hydrogen, SACOME notes from the [Renewable and Energy Major Projects Report 2022](#) that South Australia is attracting approximately 1 per cent of the investment pipeline in hydrogen.

Fee structures should therefore be as low cost and flexible as possible, and should be released at the same time as the draft Bill, alongside the proposed mechanism for 'benefit sharing'.

Moreover, it is the view of some members that should cost recovery be adopted, timelines for assessments should be formalised in some way to provide proponents with certainty.

Need for an agnostic approach for assessing hydrogen projects

Consistent with SACOME's previous advocacy, SACOME submits the Government should be technology-agnostic when assessing projects and look to prioritise pathways that achieve the greatest emissions at lowest cost.

Accordingly, it is SACOME's view that the proposed objects clause be amended to explicitly include the economic development of all low carbon hydrogen opportunities, not just 'green hydrogen'.

Currently, 'blue hydrogen' is the least expensive method to produce hydrogen and its inclusion would be instrumental in the development of a nation-leading hydrogen economy. Carbon Capture and Storage (CCS) is necessary if this to be leveraged, and the Moomba CCS facility could be of material benefit to the State in its clean energy ambitions.

Moreover, as SACOME has previously [submitted](#) to Government in relation to the draft Petroleum and Geothermal Energy Act, CCS will be necessary for hard to abate sectors in meeting their emissions reduction requirements.

Data reporting obligations

The proposed data reporting obligations are viewed by members as too broad.

Of particular concern is the reference to 'any technical report in connection with an activity conducted under the licence' be submitted to Government, which is far too vague.

As currently proposed, it would appear to cover internal engineering and commercial studies, with producers releasing commercially sensitive information and confidential information covered by third party non-disclosure agreements. Not only would this undermine a company's competitiveness, but it may also leave them open to legal risk.

For the avoidance of all doubt, the proposed confidentiality timeframes do not appreciate commercial sensitivities.

Decommissioning requirements

SACOME supports the proposal for best practice decommissioning to apply to future projects, noting the extant environmental and reputational risks for the sector with projects that do not have the same rehabilitation obligations.

There is little detail in the Issues Paper and SACOME notes that DEM highlighted the possibility of transitioning some projects over to the new provisions. SACOME would welcome further particulars and input on such a process.

In summary, SACOME thanks the Department for their constructive engagement on this reform to date and looks forward to commenting in more depth when the draft Bill is released.

Yours sincerely



Rebecca Knol

Chief Executive Officer

South Australian Chamber of Mines & Energy