

11 November 2022

Ms Victoria Brown
Senior Policy Adviser
Mineral Resources Division
Department for Energy and Mining

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

Dear Ms Brown

Thank you for the opportunity to comment on the Government's proposed Scoping Framework and for convening the workshop on 24 October 2022.

To inform our submission, SACOME facilitated a meeting with affected companies that are members of SACOME.

Recognising that scoping is a process rather than a discrete event per se, its purpose is to identify the critical impacts of mining developments prior to commencing a mining lease application. Pursuant to Part 10 of the Mining Regulations 2020, the objectives of scoping are to:

1. Provide tenement holders with an opportunity to obtain greater certainty around government and community expectations regarding the scope of work appropriate for assessment;
2. Provide for projects to be assigned to appropriate assessment pathways after considering information and other materials provided in connection with scoping reports;
3. Ensure that the level of the assessment is commensurate with the potential environmental impacts after considering project type, scale, duration and the sensitivity of the location of mining and ancillary operations;
4. Ensure that projects are assessed within a scheme that promotes efficiencies, transparencies, and clarity as to approval pathway and technical assessments; and
5. Facilitate stronger alignment and integration of the South Australian and Australian Government objectives to further streamline requirements and reduce regulatory burden for the proponent.

In SACOME's 2020 submission to the Government concerning the Draft Mining Regulations 2020, SACOME stated, inter alia:

- SACOME lends its in-principle support to the scoping process set out in the draft Regulations recognising that it aligns closely with Recommendation 1 of SACOME's submission to the Leading Practice Mining Acts Review in 2017, which called for redesign of the approvals process to include 'a scoping document at the beginning of the approvals process to assist in developing Terms of Reference to guide the Mining Lease Application process'.
- SACOME supports the scoping process to provide applicants... with greater certainty...
- SACOME supports the aim of creating a mechanism to ensure that projects are assessed [in such a way] that promotes efficiencies, transparency and clarity between industry and the regulator...
- Given scoping represents a significant addition to the regulatory process... as a streamlining measure, members have suggested incorporating an offset elsewhere in the application process...

SACOME's support for scoping was predicated on the above but submits that the proposed framework does not provide applicants with greater certainty, presents a significant regulatory burden for applicants that has the potential to delay projects, and in its current form is unnecessarily complex – all of which are at odds with its intended objectives.

The feedback received from member companies focussed on three principal issues:

- The adequacy of consultation and timelines;
- The additional regulatory burden and lack of certainty in the draft framework; and
- The need for scoping to be voluntary or by mutual agreement.

Despite the promulgation of the Mining Act Regulations in January 2021, the Department is consulting on the design of the proposed scoping framework over 18 months later and without the benefit of draft templates. The piecemeal nature of this consultation makes it difficult for industry to meaningfully comment.

While the delay in consultation is noted, SACOME is of the view the Government should take the necessary time to consult to implement a workable framework, rather than a model which is pursued in haste.

Three Stage Approval Process & Certainty

South Australia currently has a two-stage approval process, being the Mining Lease (ML) and the Program for Environment Protection and Rehabilitation (PEPR). These processes are detailed, time-consuming and expensive.

Introducing a mandatory, additional process to be undertaken prior to the ML and PEPR is seen as an unnecessary burden to industry, unless undertaken in a voluntary manner.

Resource companies already scope works as part of a project, identifying critical path work, and consult with DEM and other agencies during this process. A mandatory scoping process therefore increases regulatory red tape, which is not consistent with broader Government policy regarding regulatory reform and the intent of the extensive consultation on mining legislation changes undertaken in recent years.

A key concern identified was having unfixed Terms of Reference as part of the framework's design. This currently offers little certainty to companies as questions or concerns from regulators may shift over time commensurate with staff turnover, shifting the scope which may risk delaying projects and, consequently, affect project viability or the attraction of investment.

Moreover, the framework with its uncertain design could offer little value beyond existing regulatory processes and potentially not include information that is either later sought as part of the ML or the PEPR. The extent and end point of scoping needs to be clear and fixed, consistent with its application in Western Australia.

It is already the case the ML has drawn out information from the PEPR into the ML statement and it appears to be the case here that information that is ordinarily found in the PEPR will now be required to be submitted as part of scoping. This may occur when the proponent is not yet ready to provide the information or is unwilling or unable to expend substantial resources on a process which remains unapproved.

On the basis of the draft process, SACOME is concerned this process could take between 6 to 12 months, a timeframe which will have significant impacts on operations and the viability of projects. Noting the process is project specific, if this timeline were reduced, it

would then follow this would offset time from the subsequent approvals process, but it should not come at the risk of significant delays overall.

Resourcing

It is already the case that approval timeframes by DEM are significantly delayed. SACOME wrote to the Minister outlining the increased delays to approvals on 11 April 2022 (see Attachment A).

Existing resourcing arrangements within DEM and other agencies is not compatible with introducing a new, time consuming process that is still relatively untested, particularly given current workloads for those agencies and other initiatives which draw agency staff from time to time.

Industry requires confidence that additional regulatory burden is subject to clear timeframes which are legislated (or otherwise published) and adhered to.

“Voluntary” Process

Scoping has been presented as a voluntary process; however, with the potential for some projects to be ‘called in’ by the Minister. This is not acceptable given that clear criteria has not been determined and shared within industry for comment.

This consultation should include:

- The types of projects that could expect to be called in;
- The criteria for calling them in;
- Clear timelines around when they would be called in;
- The length of the process (as outlined in legislation); and
- Certainty that no further works would be required by any of the regulators (DEM, DEW, EPA etc) during the Mining Lease (ML) and Program for Environment Protection and Rehabilitation (PEPR) processes.

A frustration from mining proponents is that they may follow the published Terms of Reference when developing MLs and PEPRs, ensure all relevant specialists’ studies are robustly undertaken, engage with the regulators and undertake stakeholder engagement, but further works can still be requested before approvals are obtained and mining can commence.

If scoping affords no additional certainty – or, indeed, creates further uncertainty – then the process would rightly be regarded as burdensome on top of existing engagement and scoping methods undertaken by responsible proponents.

In addition to the above comments, SACOME recommends the introduction of scoping be phased or initially run as a broader industry pilot to provide some confidence regarding the proposed process. SACOME further recommends a streamlining, and further consultation on criteria and triggering matters.

SACOME thanks the Department for Energy and Mining for the opportunity to comment on the proposed Scoping Framework and welcomes further constructive engagement on this important topic to ensure it is workable for all parties.

Yours sincerely



Rebecca Knol

Chief Executive Officer

South Australian Chamber of Mines & Energy

11 April 2022

The Hon Tom Koutsantonis MP

Minister for Energy and Mining

PO Box 1533

Adelaide SA 5000

Dear Minister

On behalf of the South Australian Chamber of Mining & Energy (SACOME) and its members, I am writing to formally raise concerns regarding exploration and mining approval timelines impacting the South Australian resources sector.

Following feedback from its members, SACOME conducted a review of the Department of Energy and Mining's (DEM) Mineral Resources Regulation Reports since 2017 to map the most relevant exploration licence, EPEPR and mining assessment application approval timelines, and to ascertain whether the data supports a perceived increase in the time it takes for resources sector operators to obtain approvals.

Exploration Licence Applications

The review found that since 2017, the average timeframe for the assessment of exploration licence applications have increased from 50 days to 86 days in 2020/21.

During this period, the percentage of exploration licence application assessments that meet the target timeframe of 90 days has decreased from 82 per cent in 2017 to 28 per cent in 2020/21.

Table 1. Exploration Licence Application Timeframes (2017-2021)

Year	Number of assessments completed	Number completed within target timeframe	Target timeframe (days)	Average timeframe (days)	Percentage that achieved target timeframe (%)
2020/2021	127	36	90	86	28
2019/2020	148	107	90	62	72
2018/2019	296	168	90	65	57
2017	216	177	90	50	82

EPEPRs

The average timeline for EPEPRs assessments of freehold, pastoral, perpetual lease areas have increased from 13 days in 2017 to 22 days in 2020/21.

Since 2017, the percentage of EPEPR assessments that achieved the target timeframe decreased from 96 per cent to 74 per cent.

Table 2. EPEPR Application Timeframes (2017-2021)

Year	Number of assessments completed	Target timeframe (days)	Average timeframe (days)	Percentage that achieved target timeframe (%)
2020/2021	34	25	22	74
2019/2020	32	25	26	81
2018/2019	63	25	22	81
2017	25	25	13	96

Mining Assessments

The average timeframe for extractive minerals lease mining proposals has increased from 169 days in 2017 to 219 days in 2020/21, while the percentage of extractive minerals lease proposals has decreased from 80 per cent to 55 per cent respectively.

Table 3. Extractive Minerals Lease Mining Proposal Timeframes (2017-2021)

Year	Number of assessments completed	Target timeframe (days)	Average timeframe (days)	Percentage that achieved target timeframe (%)
2020/2021	13	183	219	55
2019/2020	14	183	257	58
2018/2019	22	183	226	84
2017	6	183	169	80

The average timeframe for minerals PEPR assessments has increased from 144 days in 2017 to 205 days in 2020/21. However, since 2017 the percentage of minerals PEPR assessments have increased from 46 per cent to 62 per cent in 2020/21.

Table 4. Minerals PEPR Proposal Timeframes (2017-2021)

Year	Number of assessments completed	Target timeframe (days)	Average timeframe (days)	Percentage that achieved target timeframe (%)
2020/2021	26	92	205	62
2019/2020	22	92	208	58
2018/2019	27	92	141	62
2017	19	92	144	46

In conclusion, the data from 2017 onwards reveals that all relevant exploration licence, EPEPR and mining assessment applications average approval timeframes (days) have increased and the percentage of applications achieving the target timeframe have decreased. The percentage of minerals PEPR assessments have increased.

The data also indicates that despite an increase in fees, this has not resulted in increased commerciality nor quicker turnarounds in the processing of approvals for industry.

The South Australian resources sector seeks regulatory stability, and transparent and timely government decision making, to best facilitate long-term investment decisions and exploration viability.

For the resources sector to continue to grow and develop, SACOME calls for the timeframes for exploration and mining assessment applications to be urgently addressed and improved.

On behalf of SACOME, I seek your assistance in reviewing this matter in consultation with DEM and I look forward to your reply.

Yours sincerely



Rebecca Knol

Chief Executive Officer

South Australian Chamber of Mines & Energy

cc: Paul Heithersay, Chief Executive, Department for Energy and Mining