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***State Development Coordination &  
Facilitation Act Consultation Process***

Submission to Department of Premier & Cabinet

September, 2024

**South Australian Chamber of Mines & Energy**

*The leading industry body representing the resources sector in South Australia*

# Table of Contents

- 1. Introduction ..... 3**
- 2. Comment on the SDCF Consultation Package ..... 5**
  - 2.1 General Comment ..... 5**
  - 2.2 Comment on Part 3 of the SDCF Bill ..... 6**
    - 2.2.1 Coordinator General’s Office and associated powers ..... 6**
    - 2.2.2 State Development Areas ..... 6**
    - 2.2.3 Interaction with other Commonwealth & State approval processes ..... 8**
    - 2.2.4 Cost Recovery ..... 8**

## 1. Introduction

The South Australian Chamber of Mines & Energy (SACOME) is the leading industry association representing resource and energy companies with interests in the South Australian resources sector, including minerals, energy, extractives and petroleum.

SACOME welcomes the opportunity to provide this submission to the Department of Premier & Cabinet's *State Development Coordination & Facilitation Act* consultation process.

SACOME notes that the public consultation package comprises:

- *Draft State Development Coordination & Facilitation Bill ('SDCF Bill');*
- Guide to the Bill; and
- SDCF Issues Paper.

As a general statement of principle, SACOME supports the aims of the SDCF Bill, namely:

- *Facilitation of economy-wide decarbonisation and net zero industry growth;*
- *Ensuring that South Australia's regulatory and planning system is effective, efficient, competitive and fit-for-purpose for our transition to net-zero;*
- *Providing new powers to better coordinate, consolidate and streamline regulatory processes;*
- *Proactively addressing known challenges faced by major and complex projects;*
- *Establishing the concept of 'State Development Areas' that have been proactively assessed by regulators as environmentally and economically suitable for key developments to be facilitated at pace, while leaving existing planning and regulatory legislation otherwise unchanged.*

SACOME acknowledges that the purpose of the SDCF Bill is to enable 'economy-wide decarbonisation', consistent with the objectives set out in South Australian Government policy initiatives, including the *South Australian Economic Statement, State Prosperity Project, the Green Iron & Steel Strategy* and the *Hydrogen Jobs Plan*.

We also note that the SDCF Bill is informed by analysis of global best-practice with regard to assessment, approvals and permitting reform.

Noting that the South Australian Government's aim is to put in place a framework that allows for faster development of projects relevant to its policy aims, SACOME is broadly supportive of measures that will expedite project approvals while ensuring that appropriate regulatory safeguards are observed.

SACOME prioritises economy wide decarbonisation initiatives that also consider energy affordability and reliability.

SACOME recognises that the SDCF Bill aims to improve South Australia's investment attractiveness and is intended to address the State's competitive disadvantage with regard to development of new industries that require time-sensitive development to meet urgent demand, or to secure a first-mover advantage.

SACOME notes the alignment of concepts set out in the SDCF Bill and the Issues Paper with the policy and advocacy priorities it has advanced across the last two terms of government.

SACOME also acknowledges and thanks the Department of Premier & Cabinet, the Department of Energy & Mining and other relevant government agencies for their dedicated efforts to consult with industry stakeholders in developing the SDCF Bill.

SACOME's feedback to consultation package is provided by exception based on relevance to the South Australian resources sector.

## 2. Comment on the SDCF Consultation Package

### 2.1 General Comment

SACOME acknowledges that the overarching purpose of the SDCF Bill is to enable 'proactive, system-wide planning across all relevant State legislation to ensure timely, environmentally appropriate, economically viable and de-risked, and socially beneficial site selection, scoping and development decisions'.

Given the highly complex nature of economy-wide decarbonisation; and development of new 'green industries' in the manner contemplated by the South Australian Government's policy agenda, SACOME supports the intent of the SDCF Bill in providing a mechanism to facilitate the timely development and implementation of projects relevant to achieving these objectives and which also deliver energy affordability and reliability.

SACOME notes the following key functions of the SDCF Bill:

- Creation of the Coordinator General's Office (CGO) as a new regulatory coordination authority to perform the new functions created by the SDCF Act. SACOME understands that the CGO is intended to have a 'one window to government function';
- Granting of powers to the CGO to expedite assessment and approval timelines where possible while retaining existing assessment and protection measures under other relevant Acts.
- Granting of powers to the CGO to 'take on' or review regulatory processes and decisions, while continuing to rely on regulators' activities and assessments, including making decisions in the regulator's stead
- Granting of powers to the CGO to create State Development Areas, where the CGO and regulators can:
  - Create Development Plans;
  - Arrange for appropriate zoning;
  - Build critical infrastructure; and
  - Allow regulators to specify conditions and thresholds under which streamlined approvals can be provided, principally through a Statement of Regulatory Requirements (SRR).
- Powers to compulsorily acquire land for essential infrastructure development and for State-significant projects, consistent with existing compulsory land acquisition provisions under the *Land Acquisition Act 1969*. These powers are subject to Ministerial approval and do not change the LAA Act's special and protective provisions regarding Native Title.

## 2.2 Comment on Part 3 of the SDCF Bill

SACOME recognises that Part 3 of the Bill sets out the Project Coordination and Facilitation powers of the CGO. Noting that this is the most important Part of the SDCF Bill, comment is provided on relevant measures.

### 2.2.1 Coordinator General's Office and associated powers

SACOME supports the creation of the CGO in the manner envisaged by the draft Bill. The South Australian resources sector operates under the 'one window to government' model through its interaction with the Department of Energy & Mining (DEM) and acknowledges the utility of this approach.

We note that the draft Bill includes powers to streamline overall timeframes, manage and align approvals through a single process, and reduce uncertainty by enabling earlier, more proactive regulatory engagement.

SACOME further notes that:

*'The proposed model is geared towards aligning and streamlining timeframes for priority projects where this is considered necessary and feasible, and after consulting with the relevant (lead agency) decision maker. This can take the form of imposing a timeframe where none would otherwise exist, or varying an already existing timeframe, for example to ensure it is made at the same time as other relevant decisions.'*<sup>1</sup>

SACOME supports this policy intent and the proposed enabling powers afforded to the CGO by the draft Bill.

### 2.2.2 State Development Areas

SACOME supports the concept of State Development Areas (SDA) as a:

*'proactive, whole-of-regulatory-system master planning mechanism that considers all relevant state legislation, appropriately balancing environmental, economic, social and local considerations, to deliver appropriate, well-balanced outcomes in the right locations.'*<sup>2</sup>

We recognise that the South Australian Government has drawn from interstate and international examples of similar mechanisms involving relevant authorities working with regulators to determine geographical areas with ideal circumstances for certain projects or land uses.

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<sup>1</sup> State Development Coordination & Facilitation Act Issues Paper, pg. 28

<sup>2</sup> Ibid. pg. 31

We further note that SDAs as proposed do not seek to limit either activity or land use within a declared area, which will enable their application to a range of complementary uses including: manufacturing or port-industrial scenarios, infrastructure corridors, or even environmental projects.

This, in turn, provides a vehicle for cohesive development of multi-activity industrial hubs allowing for co-development and co-existence of the chain of industrial dependencies necessary to achieve industrial decarbonisation and development of green industry as contemplated by the South Australian Government's policy agenda.

The State Development Area concept aligns with SACOME's 'Resources Sector Heatmap & Infrastructure Corridors' policy priority set out in the *SACOME 2024 Policy Priorities* paper.<sup>3</sup>

The Heatmap concept aims to provide government, industry and investors with a consolidated understanding of the value of South Australia's resources provinces and facilitate greater project investment across the State.

By mapping the economic value of resources province to the State, alongside the requisite infrastructure needed for its development, SACOME seeks to advance a measure that consolidates the understanding of project opportunities and requirements across South Australia's resources provinces to catalyse investment and overcome barriers to project development.

Alongside this, SACOME continues to advocate for implementation of the Infrastructure Corridors initiative as an infrastructure investment attraction tool by identifying and establishing infrastructure project pathways to major South Australian resources provinces.

This includes holistically resolving land access, approvals and logistics issues and operating as a jurisdictional advantage by providing operators with a de-risked and expedited path to project development.

SACOME recognises that SDAs have significant conceptual overlap with the Resources Sector Heatmap and Infrastructure Corridors policy priority and that SDAs offer a similar vehicle to reach the objective of expedited project development in South Australia.

Designating SDAs as 'geographical area of pre-approval' and utilising the proposed Statement of Regulatory Requirement (SRR) mechanism offers certainty to proponents regarding the requirements that must be met to use the expedited pre-approvals process offered by the SRR.

SACOME recognises the utility of SDA/SRR mechanism as an investment attraction tool for the State.

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<https://www.sacome.org.au/2024policypriorities.html#:~:text=%E2%80%8BOur%20priorities%20maintain%20a,outcomes%2C%20and%20addressing%20skills%20shortages.>

### 2.2.3 Interaction with other Commonwealth & State approval processes

SACOME notes that the CGO and its associated powers will be limited by a range of other Commonwealth and State approvals processes, notably where they interact with the operation of the Commonwealth *Native Title* and *Environment Protection Biodiversity & Conservation* (EPBC) Acts; and the South Australian *Hydrogen & Renewable Energy Act*, *Mining Act* and the *Pastoral Land Management & Conservation Act*.

SACOME does not call for any changes to the proposed operation of the SDCF Bill with regard to its interaction with other Commonwealth and State legislation.

SACOME notes that a key objective of the SDCF Bill is to expedite project approval timeframes and that the public consultation and approvals requirements set out in the above Acts are likely to impact this outcome.

SACOME acknowledges that the South Australian Government has in place EPBC assessment Bilateral Agreements with the Commonwealth for the Mining Act and the Planning, Development and Infrastructure Acts which can assist in this regard.

Further, SACOME acknowledges that the South Australian Government proposes to lead negotiation of land access agreements with Native Title holders when implementing a State Development Area.

SACOME suggests formalising a State-led approach as part of the SDCF Bill, noting that land access is a critical aspect of project development and the South Australian Government has greater ability to reach a 'whole of area' land access agreement as compared to project proponents who must negotiate on a licence area basis.

SACOME observes that the SDCF Act may result in expedited timeframes within its own framework, but still result in delays due to the operation of other Commonwealth and State Acts, creating circumstances where expedited approvals under the SDCF Act ultimately result in reaching known bottlenecks in the approval process at a faster pace.

Efforts to proactively address this potential outcome would be usefully prescient.

### 2.2.4 Cost Recovery

SACOME notes that:

*'It is proposed that CGO can recover reasonable costs incurred by it and/or other state authorities from proponents, in accordance with requirements published by the Minister administering the Act. The Minister would be able to prescribe fees by fee notice under the Legislation (fees) Act 2019, as per current processes. It is proposed that cost recovery will require prior agreement with the party that costs are to be recovered from.'*



*It is reasonable to recover costs where they are significant and associated with a large proponent requesting CGO facilitate a major project.<sup>4</sup>*

SACOME seeks clarification on whether the proposed measures will result in costs for project proponents in addition to those charged by lead agencies under their usual (i.e. 'non CGO') approvals process.

While SACOME acknowledges that expedited project timeframes may justify additional charges for project proponents, greater clarity and transparency is sought on this point.

Additionally, if the CGO proposes to impose a 'fee for service' model, guarantees with regard to maximum timeframes are of importance to proponents.

Noting that the SDCF framework will be subject to the consultation and approvals timeframes under Acts referenced at 2.2.3 above, SACOME seeks further clarification on this point.

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<sup>4</sup> Ibid pg.39