



26 June 2023

Submission: *Hydrogen and Renewable Energy Act* draft Bill

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure, connecting natural and renewable gas production to demand centres in cities and other locations across Australia. Offering a wide range of services to gas users, retailers and producers, APGA members ensure the safe and reliable delivery of 28 per cent of the end-use energy consumed in Australia and are at the forefront of Australia's renewable gas industry, helping achieve net-zero as quickly and affordably as possible.

APGA welcomes the opportunity to provide comments on the Department of Energy and Mining (DEM) consultation on the South Australian Hydrogen and Renewable Energy Act draft Bill. APGA support the scheme as a positive step in opening the way for renewable gas industries to develop in South Australia.

APGA supports the intent of the draft Bill which meets the intended objectives of the Act as set out in the consultation paper. However there are minor aspects of the Bill which need to be addressed to ensure the Bill is correctly scoped and targeted. These include:

- Scope and intent of the Bill
- Regulated Activities
- Renewable Energy Feasibility Licence land access
- Grandfathering and transitional provisions

Scope and intent of the Bill

APGA would like to seek clarification on wording of the draft Bill which may not reflect the intent of the Act as stated in the Explanatory Guide. The draft Bill *establishes a licensing and regulatory framework for generating hydrogen for commercial purposes and the development of **large-scale** renewable energy projects, such as wind farms and solar farms, under a single Act to reduce red tape and regulatory duplication.* However, the Bill does not provide any definitions of 'large-scale', or consider potential exemptions based on project size.

If this is intentional such that the Bill applies to projects at the discretion of DEM, this introduces unnecessary regulatory uncertainty which may impede investment in some renewable energy projects. Rather, if all projects are generally expected to be covered, not specifying this also introduces unnecessary regulatory uncertainty. Note that APGA would consider application to all projects as being excessive considering the small nature of some projects.

If not defining 'large-scale' is unintentional, the Bill would be strengthened by defining what is meant by 'large-scale'. Details of any intended exclusions, and the process for their

application (i.e. automatic exclusion via regulation or direct application to the Minister), would also improve regulatory certainty.

Regulated activities

The Explanatory Guide for the draft Bill notes its intention to provide the following definition of regulated activities, for the purposes of licencing under the Act:

- generating hydrogen for a commercial purpose, and constructing, installing, operating, maintaining and decommissioning facilities for hydrogen generation and the surface storage of the generated hydrogen;
- exploring and exploiting renewable energy resources, and constructing, installing, operating, maintaining and decommissioning of renewable energy infrastructure such as wind turbines, solar panels, power lines regulated under this Act and storage facilities such as batteries.

The current drafting of the Bill (Section 9 of Part 3, Division 1) notes the following activities are regulated activities: (a) generating hydrogen for a commercial purpose; (b) exploring for a renewable energy resource; (c) exploiting a renewable energy resource; (d) undertaking an infrastructure activity; (e) any other activity prescribed by the regulations for the purposes of this definition.

While hydrogen generation under the Bill is, sensibly, limited to commercial purposes, the 'exploitation of a renewable energy resource' is not limited to commercial purposes. This introduces risk of unintended extension to non-commercial operations such as operating household rooftop solar equipment, or wind-driven bore pumps. APGA is uncertain if the intent of the Act is to licence hydrogen generation for commercial purposes only, and exploitation of renewable energy generally for all purposes. Either way, the Bill should be clear as to its intended scope and consider greater consistency of coverage definitions.

Renewable Energy Feasibility Licence land access

The Explanatory Guide to the Bill notes that the proposed Renewable Energy Feasibility Licence (REFL), *confers a right to enter and use pastoral land, State waters and other Crown land prescribed by regulations and for other land tenures including freehold land, a REFL **does not** confer a right to enter and use land.*

This is not clearly articulated in the draft Bill. As drafted, Subdivision 2 - Renewable Energy Feasibility Licence does not explicitly exclude freehold land from the requirements of a renewable energy feasibility license. APGA proposes that DEM amend the drafting of:

- Section 13 (1) (of Division 2, Subdivision 2 of the proposed Act) to exclude freehold land from the requirements of a renewable energy feasibility license; and
- Section 15 (2) (a) to also exclude the requirement for a previously held renewable energy feasibility licence where the land in question is freehold land.

Grandfathering and transitional provisions

APGA appreciates that DEM have left it open to industry as to how to manage existing projects in order to avoid any unnecessary duplication and costs for those who have completed or are already engaged in the assessment process.

APGA believes that for the purposes of transition, in order to accomplish this the framework should explicitly *exclude*:

- all projects which are currently operational
- any project which has already received development approval upon commencement of the Act; and
- changes to an existing project which does not trigger a new or additional AEMO registration.

This would ensure that all existing projects would not need to seek 're-approval' for the same project under a new framework. Regulatory certainty in this regard would be valued by projects currently underway or considering commencement in the near future.

To discuss any of the above feedback further, please contact me on +61 422 057 856 or jmccollum@apga.org.au.

Yours Sincerely,



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