



Government
of South Australia

Department for
Energy and Mining

Hydrogen &
Renewable Energy
Regulatory Guidelines

005

Referral of matters to prescribed body under the *Hydrogen and Renewable Energy Act 2023*



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South Australian Resources Information Gateway (SARIG)

map.sarig.sa.gov.au



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Referral of matters to a prescribed body

Subject to Sections 73(2)&(4) of the Hydrogen and Renewable Energy Act 2023 (the Act), the Minister must before approving an Environmental Impact Report (EIR), Statement of Environmental Objectives (SEO) or Scoping Report, refer the documents to the prescribed body for their response within a prescribed period. This period has been prescribed within Regulation 40(1) of the Hydrogen and Renewable Energy Regulations 2024 (the Regulations) as 30 business days or such other period as may be determined by the Minister and specified in the referral.

Section 73 of the Act and regulation 40 of the Regulations prescribe the requirement and process for referrals to prescribed bodies. In the case of a body prescribed under regulation 40(2), the Minister is required to determine Guidelines, as per regulation 40(3), for establishing the relevant interest for each body by which the need for a referral will be determined.

For the purposes of regulation 40, this document has been determined by the Minister to meet the requirement for a guideline for determining the need for referral of an EIR, an SEO and/or a Scoping Report to prescribed bodies.


Prescribed bodies and acts

The following bodies prescribed under regulation 40(2), are a prescribed body for the purposes of Section 73(1) of the Act when they have a relevant interest in the matters addressed in the document to which section 73 of the Act applies:

- (a) an administrative unit of the Public Service that is, under a Minister, responsible for the administration of a prescribed Act:

- *Aboriginal Heritage Act 1988*
- *Adelaide Dolphin Sanctuary Act 2005*
- *Coast Protection Act 1972*
- *Crown Land Management Act 2009*
- *Energy Resources Act 2000*
- *Environment Protection Act 1993*
- *Harbors and Navigation Act 1993*
- *Heritage Places Act 1993*
- *Historic Shipwrecks Act 1981*
- *Landscape South Australia Act 2019*
- *Marine Parks Act 2007*

- *Mining Act 1971*
- *National Parks and Wildlife Act 1972*
- *Offshore Minerals Act 2000*
- *Opal Mining Act 1995*
- *Pastoral Land Management and Conservation Act 1989*
- *Petroleum (Submerged Lands) Act 1982*
- *Planning, Development and Infrastructure Act 2016*
- *South Australian Public Health Act 2011*
- *River Murray Act 2003*
- *Wilderness Protection Act 1992*
- *Work Health and Safety Act 2012*
- any other Act determined by the Minister by notice in the Gazette to be a prescribed Act for the purposes of this definition.

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- (b) the Coast Protection Board under the Coast Protection Act 1972;
 - (c) the Technical Regulator under the Electricity Act 1996;
 - (d) the Environment Protection Authority under the Environment Protection Act 1993;
 - (e) the South Australian Country Fire Service under the Fire and Emergency Services Act 2005;
 - (f) the Commissioner of Highways under the Highways Act 1926;
 - (g) the regional landscape board under the Landscape South Australia Act 2019 responsible for the area to which the relevant report or statement relates;
 - (h) the Native Vegetation Council under the Native Vegetation Act 1991;
 - (i) the Pastoral Board under the Pastoral Land Management and Conservation Act 1989.

Relevant interests of a prescribed body

The purpose of this guideline is to define the relevant interests of a prescribed body, ensuring that the prescribed body receives referral of documentation set out under Section 73 of the HRE Act for response and consideration in any approval decisions.

Table 1 below sets out each body and the relevant interest of that body that would trigger referral of documentation. This guideline for referral to prescribed bodies under the HRE Act has been determined in consultation with each body and has been made publicly available as required under Regulation 40(4).

Table 1 Prescribed bodies, legislation, relevant interests and referral contacts

Prescribed body	Legislation	Relevant interest (referral trigger)	Referral contact
Attorney Generals Department – Aboriginal Affairs and Reconciliation	<i>Aboriginal Heritage Act 1988</i>	All proposed regulated activities ¹ that have the potential to damage, disturb or interfere with an Aboriginal site, object or remains. DEM will refer all EIR, SEO and Scoping Reports	Manager - Aboriginal Heritage AAR.correspondence@sa.gov.au
Department for Environment and Water	<i>Adelaide Dolphin Sanctuary Act 2005</i>	Proposed regulated activities ¹ within and adjacent to the Adelaide Dolphin Sanctuary	DEWPlanningandAssessment@sa.gov.au
	<i>Coast Protection Act 2005</i>	Proposed regulated activities ¹ within the Coastal Areas Overlay under the <i>Planning, Development and Infrastructure Act 2016</i> - Planning and Design Code ² .	DEWPlanningandAssessment@sa.gov.au
	<i>Crown Land Management Act 2009</i>	Proposed regulated activities ¹ within or adjacent to Crown Lands	DEWPlanningandAssessment@sa.gov.au
	<i>Heritage Places Act 1993</i>	Proposed regulated activities ¹ within any of the following <i>Planning, Development and Infrastructure Act 2016</i> - Planning and Design Code Overlays ² : <ul style="list-style-type: none"> ▪ State Heritage Place ▪ State Heritage Area ▪ Heritage Adjacency 	DEWPlanningandAssessment@sa.gov.au
	<i>Historic Shipwrecks Act 1981</i>	Proposed regulated activities ¹ within the Historic Shipwrecks Overlay ²	DEWPlanningandAssessment@sa.gov.au
	<i>Landscape South Australia Act 2019</i>	DEM will refer all EIR, SEO and Scoping Reports	DEWPlanningandAssessment@sa.gov.au
	<i>Marine Parks Act 2007</i>	Proposed regulated activities ¹ within or adjacent to State Marine Parks	DEWPlanningandAssessment@sa.gov.au
	<i>National Parks and Wildlife Act 1972</i>	Proposed regulated activities ¹ within or adjacent to a reserve within the meaning of the <i>National Parks and Wildlife Act 1972</i>	DEWPlanningandAssessment@sa.gov.au
	<i>Pastoral Land Management and Conservation Act 1989</i>	Proposed regulated activities ¹ on pastoral land under the <i>Pastoral Land Management and Conservation Act 1989</i>	DEWPlanningandAssessment@sa.gov.au
	<i>River Murray Act 2003</i>	Proposed regulated activities ¹ within either the River Murray Flood Plain Protection Area or River Murray Tributaries Protection Overlay under the <i>Planning, Development and Infrastructure Act 2016</i> - Planning and Design Code ² .	DEWPlanningandAssessment@sa.gov.au
	<i>Wilderness Protection Act 1992</i>	Proposed regulated activities ¹ within or adjacent to a Wilderness Protection Area	DEWPlanningandAssessment@sa.gov.au



Prescribed body	Legislation	Relevant interest (referral trigger)	Referral contact
Coast Protection Board	<i>Coast Protection Act 1972</i>	Proposed regulated activities ¹ within the Coastal Areas Overlay under the <i>Planning, Development and Infrastructure Act 2016 - Planning and Design Code</i> ² .	dew.coastprotectionboarddevelopmentapplications@sa.gov.au
Department for Energy and Mining	<i>Energy Resources Act 2000</i>	Proposed regulated activities ¹ overlapping a licence administered under the <i>Energy Resources Act 2000</i>	DEM – Energy Regulation Branch DEM.EnergyRegulation@sa.gov.au
	<i>Petroleum (Submerged Lands) Act 1982</i>	Proposed regulated activities ¹ overlapping a licence administered under the <i>Petroleum (Submerged Lands) Act 1982</i>	DEM – Energy Regulation Branch DEM.EnergyRegulation@sa.gov.au
	<i>Mining Act 1971</i>	Proposed regulated activities ¹ overlapping a licence administered under the <i>Mining Act 1971</i> Proposed regulated activities ¹ overlapping a licence administered under the <i>Mining Act 1971</i> Proposed regulated activities ¹ within either the Resource Extraction Zone or Resource Extraction Protection Area Overlay under the <i>Planning, Development and Infrastructure Act 2016 - Planning and Design Code</i> ² .	DEM – Mining Regulation Branch DEM.MiningRegRehab@sa.gov.au
	<i>Offshore Minerals Act 2000</i>	Proposed regulated activities ¹ overlapping a licence administered under the <i>Offshore Minerals Act 2000</i>	DEM – Mining Regulation Branch DEM.MiningRegRehab@sa.gov.au
	<i>Opal Mining Act 1995</i>	Proposed regulated activities ¹ overlapping a licence administered under the <i>Opal Mining Act 1995</i>	DEM – Mining Regulation Branch DEM.MiningRegRehab@sa.gov.au
Technical Regulator (Department for Energy and Mining)	<i>Electricity Act 1996</i>	Proposed regulated activities ¹ requiring a licence and/or Safety, Reliability, Maintenance and Technical Management Plan (SRMTMP) under the <i>Electricity Act 1996</i>	DEM – Office of the Technical Regulator otr.electricityinfrastructure@sa.gov.au
Environment Protection Authority	<i>Environment Protection Act 1993</i>	Prescribed activities of environmental significance under the <i>Environment Protection Act 1993</i> Any EIR, SEO and/or Scoping Reports involving wind farms.	yourepa@sa.gov.au Submission also via GENI referrals portal
Department for Infrastructure and Transport	<i>Harbors and Navigation Act 1993</i>	Proposed regulated activities ¹ in state waters	DIT.MarineSafety@sa.gov.au
Department for Housing and Urban Development	<i>Planning, Development and Infrastructure Act 2016</i>	DEM will refer all EIR, SEO and Scoping Reports	Planning and Land Use Services (PLUS) – Plan SA DHUD.CrownImpactAssessment@sa.gov.au

Prescribed body	Legislation	Relevant interest (referral trigger)	Referral contact
SA Health	<i>South Australian Public Health Act 2011</i>	Proposed regulated activities ¹ with overnight accommodation facilities	Manager Regional Public Health HealthHealthProtectionOperations@sa.gov.au
SafeWork SA	<i>Work Health and Safety Act 2012</i>	Proposed regulated activities involving a Major Hazard Facility (MHF)	Technical Services AGDSWSATechnicalServices@sa.gov.au
South Australian Country Fire Service	<i>Fire and Emergency Services Act 2005</i>	Proposed regulated activities ¹ within a Hazards (Bushfire—High Risk) Overlay under the <i>Planning, Development and Infrastructure Act 2016</i> - Planning and Design Code ² . Hydrogen generation regulated activities	cfs.developmentassessment@sa.gov.au
Commissioner of Highways	Highways Act 1926	Proposed regulated activities ¹ within any of the following Planning, Development and Infrastructure Act 2016 - Planning and Design Code Overlays ² : <ul style="list-style-type: none"> ▪ Future Road Widening ▪ Key Outback and Rural Routes ▪ Major Urban Transport Routes ▪ Non-Stop Corridors ▪ Traffic Generating Development ▪ Urban Transport Routes ▪ Tunnel Protection 	DIT:Land Use CoOrdination DIT. LandUseCoOrdination@sa.gov.au
Alinytjara Wilurara Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Alinytjara Wilurara landscape management region or those with the potential to impact the region due to ancillary activities	aw.landscapeboard@sa.gov.au
Eyre Peninsula Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Eyre Peninsula landscape management region or those with the potential to impact the region due to ancillary activities	EPLBreferrals@sa.gov.au
Green Adelaide Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Green Adelaide landscape management region or those with the potential to impact the region due to ancillary activities	DEW.GreenAdelaideReferrals@sa.gov.au
Hills & Fleurieu Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Hills and Fleurieu landscape management region or those with the potential to impact the region due to ancillary activities	hflandscapeboardreferrals@sa.gov.au
Kangaroo Island Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Kangaroo Island landscape management region or those with the potential to impact the region due to ancillary activities	ki.landscapeboard@sa.gov.au



Prescribed body	Legislation	Relevant interest (referral trigger)	Referral contact
Limestone Coast Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Limestone Coast landscape management region or those with the potential to impact the region due to ancillary activities	LandscapeSA.LCLandscapeBoard@sa.gov.au
Murraylands and Riverland Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Murraylands and Riverland landscape management region or those with the potential to impact the region due to ancillary activities	mr.landscapeboardreferrals@sa.gov.au
Northern and Yorke Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within Northern and Yorke landscape management region or those with the potential to impact the region due to ancillary activities	ny.landscapeboard@sa.gov.au
South Australian Arid Lands Landscape Board	<i>Landscape South Australia Act 2019</i>	Proposed regulated activities ¹ within SA Arid Lands landscape management region or those with the potential to impact the region due to ancillary activities	SAALLandscapeBoard@sa.gov.au
Native Vegetation Council	<i>Native Vegetation Act 1991</i>	Proposed regulated activities ¹ involving clearance ³ of native vegetation, as defined under the Native Vegetation Act 1991 and where the Act applies	nvc@sa.gov.au
Pastoral Board	<i>Pastoral Land Management and Conservation Act 1989</i>	Proposed regulated activities ¹ on pastoral land under the Pastoral Land Management and Conservation Act 1989	DEW Pastoral Unit – DEW.Pastoral@sa.gov.au

Table 2 Further referrals where required

Body	Legislation	Relevant Interest (referral trigger)	Administrative Unit
Relevant Council	<i>Local Government Act 1999</i>	Proposed regulated activities ¹ within a council area	Relevant Council
Outback Communities Authority	<i>Outback Communities (Administration and Management) Act 2009</i>	Proposed regulated activities ¹ within outback areas	Outback Communities Authority oca@sa.gov.au
SA Health	<i>Food Act 2001</i>	Proposed regulated activities ¹ with food catering	Manager Regional Public Health HealthHealthProtectionOperations@sa.gov.au
	<i>Safe Drinking Water Act 2011</i>	Proposed regulated activities ¹ with the treatment and supply of potable water.	
Civil Aviation Safety Authority	<i>Civil Aviation Act 1998</i> <i>Airspace Act 2007</i>	Proposed regulated activities ¹ within the Airport Building Heights (Regulated) Overlay under the <i>Planning, Development and Infrastructure Act 2016</i> - Planning and Design Code ² .	CASA - Aerodromes@casa.gov.au Airservices Australia - Airport.developments@AirservicesAustralia.com

¹ Regulated activities as defined by the HRE Act include:

- generating hydrogen for a commercial purpose;
- exploring for a renewable energy resource;
- exploiting a renewable energy resource;
- an infrastructure activity;
- an associated infrastructure activity; adjacent
- an activity of a kind prescribed by the regulations.

And all operations reasonably necessary for, or incidental to, undertaking that activity.

² For access to the Planning, Development and Infrastructure Act 2016 - Planning and Design Code Overlays, please see the [SA Property and Planning Atlas](#).

³ clearance, in relation to native vegetation, means—

- (a) the killing or destruction of native vegetation;
- (b) the removal of native vegetation (under the Native Vegetation Act 1991);
- (c) the severing of branches, limbs, stems or trunks of native vegetation;
- (d) the burning of native vegetation;
- (e) any other substantial damage to native vegetation, and includes the draining or flooding of land, or any other act or activity, that causes the killing or destruction of native vegetation, the severing of branches, limbs, stems or trunks of native vegetation or any other substantial damage to native vegetation;

ACKNOWLEDGEMENT OF COUNTRY

As guests here on Kaurna land, the Department for Energy and Mining (DEM) acknowledges everything this department does impacts on Aboriginal country, the sea, the sky, its people, and the spiritual and cultural connections 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.

FURTHER INFORMATION

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