To: South Australia Department for Energy and Mining (DEM)

Re: Consultation – Hydrogen and Renewable Energy Bill 2023

26 June 2023

Introduction

AMEC appreciates the opportunity to provide a submission to the Department for Energy and Mining (DEM) consultation on South Australia's Hydrogen and Renewable Energy Bill 2023. The feedback in this submission should be considered in addition to the feedback provided through meetings and AMEC's formal submission to the issues paper released in early 2023, prior to the release of this draft Bill.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia, with over 37 member companies with direct project interests in South Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over $100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2021/22 Industry generated a record high $413 billion in resources exports, invested $3.86 billion in exploration expenditure to discover the mines of the future, and collectively paid over $63 billion in royalties and taxes.

In South Australia in 2021-2022(FY) mineral exploration expenditure was at an 8-year high at $122.3 million, a 34% increase from the previous year, and $2.5 billion was spent on capital expenditure. In 2020-21, over $237 million was generated in royalties from the $7.1 billion in mineral commodity sales, representing a record high.

Hydrogen and Renewable Energy Bill 2023

General Comments

AMEC acknowledges the impetus of the South Australian Government to create a landmark new Act and legislative framework for Hydrogen and Renewable Energies, given the strong focus of the Malinauskas Government in progressing the State's renewables ambitions.

AMEC supports the intent to welcome opportunities to explore for and incorporate the use of hydrogen and renewable energy sources across heavy industries, including mineral exploration and mining operations. The role that mineral exploration and mining will play in the decarbonisation and the transition to net zero, cannot be understated. It must be appropriately acknowledged in this framework, and supporting policy.

We strongly advocate that industries must co-exist, in order to facilitate ongoing and meaningful relations between the sectors. Supported by an effective and efficient coexistence framework, industry can collectively enhance opportunities to strengthen South Australia's pre-eminence as both a minerals and renewables powerhouse.

A contemporary, pragmatic multi-land use framework (MLUF) must be updated and implemented by Government, in collaboration with industry, to reflect renewables, and the critical role the minerals sector will play in reaching decarbonisation targets. It is only with robust, best-practice consultation and engagement, the economic and social benefits the collaboration between minerals and renewables that is yet to be fully tested, can be experienced.

AMEC welcomes ongoing engagement and consultation as the HREA, Regulations, and policy frameworks to support the HREA are developed and implemented. We concurrently welcome ongoing consultation of similar processes for the minerals sector, to ensure those frameworks are also fit-for-purpose, and can meet stakeholder expectations in a similar manner.

The feedback outlined in the below submission relates directly to the draft Hydrogen and Renewable Energy Bill 2023, released for consultation.

Release area process - consultation

AMEC questions what will be considered 'targeted consultation', to satisfy the requirements of the legislation and regulator. We welcome guidance to align regulator, industry, and community expectations. It is important fair, equitable representation of the minerals sector is maintained. As DEM is the regulatory agency for minerals, hydrogen and renewable energy, limited assurance has been provided to the minerals sector that their interests will be appropriately represented. There is also no obligation to notify a resource tenement holder of an intent to declare a release area, as per s7.

This is an oversight that can be addressed by ensuring adequate minerals sector representation will be provided, through best-practice engagement including representation from the Executive Director of Mineral Resources (or their delegate), and relevant industry bodies. AMEC recommends the Bill is updated to include specific requirements to consult with appropriate Government minerals sector representatives, in addition to industry.

AMEC recommends that s7(6) legislates via the Regulations, a requirement for the Minister to consult with impacted or potentially impacted resources tenement holders, in a manner to be consulted upon in the development of the Regulations. A notice should be issued to all potentially affected tenement holders, via SARIG and GSSA, with regular, frequent updates to SARIG including map layers of potential and granted renewable licence areas. Mineral explorers and miners are held to the highest account to ensure the public is aware of who is operating where. These provisions should be maintained for renewables projects and proposed developments.

Release area process - identification

With a proposed multi-criteria analysis process to identify release areas, there is a strong need to ensure an updated multi-land user framework is embedded from the earliest stages, including identification of release areas. The current list appears to exclude potential land users who are not

current lease and/or licence holders, or pastoralists, for example, mineral explorers. This could detrimentally impact on other existing or potential land users, and should be revised to ensure mineral explorers, miners and other potential land users have a fair say.

Scoping

AMEC notes the Scoping process sought to be legislated for the HREA will only be mandatory for those projects which will require EPBC referral. With a scoping process introduced into the 2021 commenced South Australian Mining Regulations under the *Mining Act 1971* (Mining Act), extending beyond the limits of *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) (Cwth) EPBC referrals, and limited industry support due to insufficient detail and ongoing resourcing uncertainty, AMEC strongly recommends meaningful engagement and the early development of resources to explain the intent of this process, and outline potential benefits. The threshold for mandatory scoping being limited to EPBC referral provides much-needed certainty to this process.

An EPBC bilateral for assessments and approvals will be a welcome reinvigoration for HREA and minerals. We welcome this progression, and the use of a well-consulted scoping framework once it is in place.

Environmental Impact Assessment (EIA) criteria

Robust environmental assessments, approvals, risk management, and rehabilitation requirements are outlined at every stage of resources sector development. These standards are held to the highest account for the minerals sector, and we expect other sectors uphold expectations, to ensure the reputation and performance of project developers across South Australia, does not decrease.

With a rapidly evolving environmental and climate change agenda from the State and Commonwealth Governments, it is imperative that consistency across various frameworks is maintained, and legislation is kept contemporary by aligning definitions with the Commonwealth. The definition of 'environment' for instance, must be consistent with the EPBC Act's definition, as South Australia works to re-establish its accreditation for bilateral assessments and approvals.

It is a potential barrier to development, that licences can be granted on freehold land prior to the assessment of environmental impacts of proposed infrastructure. It is understood that licences over freehold land are contingent on proponents negotiating access with landowners, but there is concern the grant of licences prior to EIA, is out of step with best practice engagement principles, applied by other sectors including mining and planning, and legislated by the Mining Act and *Planning, Development and Infrastructure Act 2016.* There is an expectation across communities and impacted stakeholders of extensive consultation and engagement prior to granting development authorisation. The proposed removal of this requirement, raises concern.

Transparency, Consistency, Clarity

AMEC has longstanding advocacy priorities for transparency, consistency and clarity, to be provided in regulatory decision making. These principles are in turn, expected of industry. Best-practice principles must be set, assessed for effectiveness, and upheld, to ensure the intent of well-consulted legislative and policy frameworks, are performing. The transparency of Government decision making,

is in the broader public interest and will ensure a match-fit multi land use framework, is delivering fair outcomes.

There is a strong need to provide these principles, and alignment with other frameworks in operation across South Australia, through the development, implementation and application of the HREA.

Timeframes are necessary to build into legislation, and be supported by Memorandums of Understanding (MOUs) with other co-regulatory agencies, to ensure project planning and key milestones are achievable, and regulators are accountable, in a similar manner to private industry. This accountability has disappointingly continued to stretch, with extended timeframes for the most basic of approvals in the minerals sector. We are hopeful these minor issues can be addressed, ahead of commencement and heightened demand as the HREA commences.

S8(5) seeks to legislate via Regulation, that the Minister can invite further applications for a REFL, and provide for a process to deal with said applications. This discretion is not questioned, but its use must be carefully considered, and criteria for potential use must be subject to transparency. It is important due consideration is given to the drafting, which appears to be weighted in favour of those operators who have been earmarked by Government to operate in the State. A fair and transparent process should be introduced and upheld.

Where a decision to refuse an application, or select one application over another is made, reasons must be made public, subject to commercial confidentiality considerations.

Regulated activities

AMEC recommends ambiguous wording is tightened, to provide much-needed certainty to industry and regulators alike. The proposed s9, 1(d) clause of 'undertaking an infrastructure activity' for instance, is open-ended, subject to the Government's application of 'reasonably necessary for' or 'incidental to' undertaking that activity. Building a road, walking on a road, or even considering a road – regardless of development, could all fit within this vague definition. Tighter wording is needed to provide reasonable parameters.

License terms

S16(1) seeks to legislate licence terms that can be extended subject to Ministerial discretion. Fundamentally, this is a practice AMEC has sought to reintroduce to the Mining Act, which removed this discretion, to the detriment of minerals projects across the State. Subject to criteria to be determined in policy and Regulations, similar, consistent provisions should be applied to mining tenure.

However, 16(5) is questioned, as it can indefinitely extend a licence, should Government face a contentious decision. Robust, transparent timeframes for decision-making are best practice and should be introduced to this Act, rather than being left subjective, and open to potential misuse.

Renewable Energy Research License

S17(1)(a) appears narrow, and a missed opportunity to consider other renewable capabilities, including relationships along the value chain with other sectors. This clause can be interpreted as to

limit licensees to the ‘generation’ of renewables rather than plan for the use of and/or incorporation or expansion of, renewables opportunities.

For example, a range of mineral operations will seek to incorporate renewable elements to meet net zero targets, and value add. Would a mining operation expanding their operations to include renewables, be eligible to apply for renewable energy research and development licensing and schemes under this clause? Further clarity is needed to explain the interaction between the research licence and existing resource tenure, as mineral licence holders all work towards net zero and value-add considerations.

Additionally, would the ‘storage’ of renewable energy, other than what is generated at a licensed facility, fall under the remit of a Renewable Energy Infrastructure Licence? Renewable batteries for instance, must be considered.

Significance

Significance is a term that features throughout this framework, yet is not adequately defined. For the purpose of s19 for example, ‘significance’ and ‘major significance’ must be clearly defined. These definitions must be consistent with other interpretations and applications of the state and/or major significance test, and Government decision making. Transparency of said decisions, must be published.

AMEC questions the application of this object (s19), and how it will be applied whilst facilitating multiple land use across multiple sectors, while allowing greater access to land.

Access Agreements

Access agreement provisions appear weighted to the favour of large-scale renewable projects, more likely to engage in arduous, litigious processes to reach optimal outcomes, than a junior mineral explorer. Considerations of equity and genuine multi-land use must be addressed.

S32(2) does not include timeframes for the reasonable expectation for the agreement of access agreements, prior to escalating negotiations. Certainty of timeframes is needed to ensure legislation does not unintentionally create a barrier to investment and development.

AMEC questions how S32(2)(b) will be interpreted, given the majority of resource tenements are held by multiple parties, including joint ventures, farm-ins, and commercial arrangements common to resources tenure. Consideration must also be given to resources tenement holders and project developers who are the recipients of Commonwealth and/or State Government grant or equity funding. The existence of these financial arrangements and contractual terms could impact alternate agreements.

S32(3) refers to ‘in the vicinity of’ without defining what the range of this measurement will be, to meet the intent of this provision. Further clarity is sought.

S32(5) should be amended to clarify that any party to the access agreement may seek to vary the agreement on the initiation of a party to the agreement, but the agreement will not be considered vary until agreement is reached by all parties.

Mediation and dispute resolution

AMEC welcomes acknowledgement of our initial feedback, that robust mediation and dispute resolution frameworks will be required to support existing mechanisms, and expected heightened demand. These mediation systems should be accessible, fair, and equitable, with transparent decision-making and appeals processes clearly outlined. We welcome the confirmation provided in a briefing with DEM on 22 June, that appeals will be limited to those with a vested interest in the project.

S32(7) seeks to introduce a clause to enable the Minister administering the HREA to mediate between parties to an access agreement, to reach agreement. The process for parties to request Ministerial mediation must be clarified, as a priority, via policy and Regulation, including timeframes for response from Government, and a robust resourcing strategy to bolster ERD Court resources, as current experiences when engaging in ERD processes are lengthy and do not support active project progression, in line with Government targets for development. S63(5), proposing the ERD Court determines compensation terms, will add further strain to an already stretched resource. AMEC welcomes the release of a resourcing plan to address concerns.

Clarity is sought as to the role the Minister will play in mediation upon request from a party to the access agreement, the timeframes which must be legislated for response from the Minister and affected parties, whether all parties will be informed of proceedings and have an escalation and/or response pathway, the criteria and/or steps that will need to be demonstrated to the Minister to outline how a genuine agreement was unable to be reached despite best efforts, and if parties are obliged to agree with the outcomes of the Minister's potential mediation intervention.

S32(8) does not clearly outline if the six-month period before parties can apply to the ERD Court for mediation, includes parties having sought Ministerial mediation under s32(7). If a party seeks Ministerial mediation, will it 'stop the clock', and leave an indeterminate time for the Minister to decide if they shall participate in the mediation process, and if yes, reach an outcome? This could pose a substantial, avoidable time delay, which can be addressed by specifying timeframes. The six-month period is noted, but caution is advised, as to realistic negotiation and ongoing agreement making timeframes, to be included in legislation, particularly where multiple stakeholders are involved.

AMEC questions what the proposed path of escalation will be in the event one party seeks Ministerial mediation (S32(7)), but another party opts for ERD Court mediation (S32(8)). Clarity is sought as to which process takes precedence. Can parties undergo both methods of mediation, if they are unhappy with the time taken, or suggested outcomes from one method of mediation, or are they restricted to only one option?

With expected heightened demand for mediation, AMEC welcomes clarity and guidance provided by Government, to provide a consistent understanding of what can be considered 'reasonable' and fair decision making, as outlined in S32(9). This guidance should be readily available to all stakeholders and multiple land users interested in operating in South Australia.

There will undoubtedly be outcomes recommended that are not amenable to all parties. In the event a determination is made by the Minister or ERD Court following mediation proceedings outlined in S32(10), AMEC questions what the effect of the outcome will be. Clarity is sought as to whether or not the outcome and/or recommendation will be legally binding. If only one party is required to trigger

mediation via an escalation pathway, compelling all parties to agree, will be challenging, and the proposed ability for the ERD Court to make orders it sees appropriate in the circumstances under s32(10)(c), could provide unfettered power to this entity.

AMEC welcomes clarity as to the hierarchy of decision-making under S32, particularly the interaction with legal frameworks under the Mining Act, including Ministerial Determinations and the Warden's Court. It is not currently clear which body will have the ultimate discretion over resources tenure under the HREA. S32(11) could be interpreted to read that the ERD Court has authority to make rulings beyond determinations of the Minister, the Warden, and the Ombudsman. Clarity is sought.

Where there may be disputed entry and the Minister may attempt to mediate between the parties under S62(4), further detail is required to outline criteria where this intervention may occur, as well as timeframes for the Minister's decision whether or not to intervene, given the 21 days' notice, and 14 days' response periods proposed; this could potentially leave only 7 days before an affected party could enter. Consideration must also be given to situations where the Minister may elect to not intervene, and parties do not proceed to the ERD Court. An impasse could hold up development, for an indeterminate period. For transparency and consistency, AMEC requests the publication of the Minister's rationale should they elect not to mediate, despite request.

Bonds

AMEC recommends S33 provisions are made consistent with the Mining Act reforms, to introduce a Mining Rehabilitation Fund, which can reduce environmental performance bonds and free up capital required to develop projects, without diminishing the responsibilities of proponents to manage and rehabilitate their land, in line with conditions outlined in approvals statements. The MRF is a best-practice model, that was introduced into Mining Legislation, and with large-scale renewables permitted under the HREA, can serve a greater benefit.

Reporting Requirements

Transparent reporting is acknowledged as a requirement of industry, but also must be upheld by Government. To date, there have been varying levels of transparency relating to decision-making across key Government agencies and decision-making processes. This is a concern as those key agencies and processes will be fundamental to the application and administration of this Act, whilst business as usual processes continue under other existing frameworks.

S36(3) proposes the Minister may use, retain or release information provided via reports, in accordance with requirements outlined in Regulations. Consultation is required, to ensure commercially confidential and sensitive information is not inadvertently released or misrepresented. Mining companies must disclose feasibility reports which are made public via the Mining Register. Will the same provisions apply to renewable proponents? It is important transparency is maintained, regardless of the project or company size.

S36(6) proposes that 'any cost' associated will be borne by the licensee. AMEC suggests this is amended to 'reasonable costs', and the guidelines outlining 'reasonable' expectations are developed, imminently. The guidelines must also address the expectations of 'reasonable and relevant' levels of detail expected for the S58(3) EIA information, required by the Minister.

Further clarity is also sought on the S37 definition of 'immediately reportable' incident, and how it differs from 'reportable incident'. Will one be relevant to work health and safety risks, while the other relates to environmental risks, for instance? If there are thresholds associated with the application of these definitions, they should be shared with industry, and consistent with WHS legislation and existing environmental frameworks.

Consistency with other legislation

AMEC has continued to express disappointment with the lack of consistency the HREA has with the recently reformed Mining Act and Regulations, but is hopeful these nuances which support the development of a renewables sector in South Australia, can be reflected to also support the development of minerals projects, critical to a decarbonised South Australia.

The introduction of Right to Negotiate, in line with the Commonwealth *Native Title Act 1993* for example, is welcome. This is a long-term advocacy objective for AMEC, and we strongly recommend Part 9B of the Mining Act is shifted to Right to Negotiate, in recognition that it is better practice Native Title legislation than currently exists under South Australia's mining law. The operation of ILUAs and requirements to have an ILUA agreed prior to grant of a REFL is another nuance. There are limited ILUAs in operation for mining that remain across the State. If the intent is to introduce state negotiated ILUAs for renewables, AMEC suggests consideration is given to extending this process to incorporate mining, as was previously the case.

The proposed ability of the Minister to grant exemptions as they see fit, under S95, by written notice, reflect the importance of an agile legislative framework, supported by robust Regulations, policy, and administration. This intent is reflected in the Objects of the Act. We welcome the development of supporting frameworks including criteria to trigger this clause, and a similar approach to mining regulation.

We also note and welcome the ability for licence terms to be extended, an ability that was questionably, and not supported by industry, removed from Mining legislation. We are hopeful our advocacy to have this ability reinstated, can be addressed in a timely manner.

Industry carefully and respectfully engages with traditional owners, to reach access agreements outlining permitted activities and boundaries. It is important those agreements are upheld by those entering the land, including contractors, subcontractors, and Government. S67(c) raises concern that on the order of the Minister, authorised persons may enter land and undertake activities outside of these agreements, including taking and remove from the land, samples from the land, d) temporarily install devices on the land, and (e) take photographs, videos and audio recordings of the land. Clarity is sought. There are very limited situations where 14 days' notice should not be provided prior to S67(2) powers being invoked, as per S67(3). AMEC recommends criteria be determined in the development of Regulations outlining these circumstances, including safety critical incidents for workers and/or the community.

It is important the consistently evolving levels of engagement and relationship building undertaken by the minerals sector, at all stages of the exploration to development pipeline, are not unintentionally diminished by other industries, who are less stringently regulated. Consistency with best-practice expectations and requirements for engagement as legislated, will provide a strong foundation for all

project proponents and land users across the State, to develop opportunities to the benefit of communities. It is important that the lessons learnt from other industries, including the minerals sector, informs the development and implementation of this framework, to enable coexistence and mutual benefits for South Australians.

Scoping

S57 outlines the application of the proposed Scoping Report to be legislated for regulated activities which are a controlled action under the EPBC Act and if the controlled action is not to be assessed under Part 8 of the EPBC Act, but instead under a bilateral agreement in accordance with that Act. AMEC welcomes the thresholds for mandatory Scoping that have been provided for the HREA. We do however question the progress of the EPBC bilateral process, as the Matters of National Environmental Significance requisite to the development of a bilateral, are subject to current consultation processes and not yet agreed. AMEC questions what the 'assessment pathways' that will be assigned under s57(2)(b) are, and how the regulator is in a position to provide certainty as to community expectations (s57(2)(a)).

Clarity is sought on the other information that may be considered in connection with scoping reports. This ambiguous proposal could have unintended, broad impacts. There could be unlimited sources of information, with no direct interest in the project. Robust controls must be in place to ensure particular interest groups do not detrimentally impact development and divert Government resources, without a genuine cause. Given this process is being developed for mining projects, AMEC seeks an update to understand how Scoping proposed for the HREA will align and differ with Scoping proposed under the Mining framework.

Timeframes for Scoping are required, including the Government's obligation to respond in a timely manner. Further clarity is sought as to the intent and application of s57(3), where it is proposed Scoping requirements may apply in relation to a project even if an application is yet to be made for a licence. This appears an extension of regulatory remit, and could render all projects to be required to submit a scoping report prior to applying for a licence. Clarity is also sought on the thresholds relating to mandatory versus voluntary Scoping, as S58(3) raises concern that the Minister may require a designated person to provide a Scoping Report beyond the reasons outlined in S57(1), reducing the certainty of this pathway. Criteria outlining mandatory versus voluntary thresholds which may require the development of a Scoping Report, for both the HREA and other legislation including Mining, are requested.

The Government's ability to resource this proposal, and impact on industry, must be considered with caution and practicality. We welcome further consultation as these elements are developed, including the expectations for the consultation plan, as per S58(7).

Notice of Entry

AMEC questions the proposal that notice of entry requirements for the HREA are 21 days, as per S61(1). The Mining Act reforms doubled the resource sector's notice of entry period to 42 days in 2021, and consistency is required to maintain the progress in engagement with affected landholders across the state. Given the size, scale and significance of HREA projects, it is imperative they are

regulated in a transparent and consistent manner, without jeopardising the progress made by other sectors.

AMEC recommends S61(3) refers to the provisions of the Mining Regulations, and the voluntary Land Access Code of Conduct, to ensure best practice principles of engagement are upheld, and notice of entry provisions on freehold and pastoral land are upheld.

Compensation

AMEC strongly opposes the proposal that resources tenement holders will not be eligible for compensation relating to any loss represented by a reduction in the value that may be recovered under that tenement or any other loss, deprivation or impairment of a prescribed kind, under S63(4).

This fundamentally opposes principles of equity and genuine multiple land uses, and could be seen to favour large-scale renewable projects, over junior mineral exploration and mining projects, who would not typically have the cash reserve to engage in lengthy and costly legal challenges.

Resources tenement holders, particularly public-listed companies who raise capital via the ASX, comply with strict governance and reporting requirements. The disclosures and statements made to the ASX, JORC and ASIC for example, are verified by a competent person, as demonstration of due diligence. The potential that their tenure may be removed subject to various clauses in this framework, and no compensation payable. That is an outcome that must be avoided. The extensive time and resources invested by mineral explorers and miners in developing their projects and testing and refining their mineral assets to a point of production in viable settings, involves long-term, higher-risk, greenfield investment from both the private sector and the public sector regulators who assess these applications.

S63(4)(b) proposes to restrict the ability of junior explorers and miners to progress legal action, to fight for a fair share of compensation. This is not supported. The ability of a typical mineral explorer to face legal action against a larger scale company, is limited, which will lead to negative outcomes for exploration and mining across the state. There needs to be an effectively administered and regulated MLUF, and this is contingent on first having, fair compensation terms that do not favour one industry over another. AMEC welcomes the update of South Australia's existing MLUF, to accommodate renewables and be practically appropriate to facilitate coexistence.

The absence of a definition of 'reasonable' continues to pose a challenge to the successful interpretation of this Bill. What is considered reasonable to one, is not often reasonable to another. Under S63(6), AMEC recommends along with the release of the Regulations, a policy framework outlining bands of compensation, including scales and ranges of fees and alternates to cash payments, are included to streamline these discussions.

AMEC questions if a process has been considered, for if there are competing compensation claims which are underway simultaneously? S63(7) does not appear to address the instance where a circular deliberation could occur, where multiple compensation and/or deliberation outcomes are contingent on one another.

The proposed requirement to demonstrate a deprivation of the use of land to qualify for compensation, is subject to challenge if introduced in current form. On freehold and Crown land, it is

common for project proponents to significantly invest in project development activities including exploration, resource definition, early land access, Native Title and stakeholder works, prior to having a defined resource project. These are significant investments that must be considered and compensated fairly, on both freehold and Crown land. For example, if a renewable energy project developer makes an agreement with a landowner on land where ongoing and/or recent mineral exploration activities have been undertaken or are in progress (including approved to commence or under application), what rights have been afforded to mineral explorers to challenge this proposed development, which could sterilise the growth or progression of their activities? These are real, continuous challenges facing the sector that need a strong Government position.

Minerals are critical to a green economy transition. Their development potential and viability in this state, should not lightly be jeaopardised in favour of another industry. There is a long history of coexistence of multiple industries that can be continued. Compensation must be payable, as a minimum form of certainty, to maintain an element of sovereign stability.

Right to require acquisition of the land

S64(1) proposes the impairment of an owner's 'enjoyment of the land' is a factor of substantial impairment that could potentially lead to an ERD Court proceeding. If for the purposes of this section the owner is a resources tenement holder, under S64(2)(b), will compensation be payable to the resources tenement holder? Clarity is also sought on the procedures should the ERD Court make an order to transfer the owner's land to the licensee as proposed in S64(2)(a).

Emergency directions

To ensure the right point of contact is being made in emergency situations, AMEC recommends S75(3)(a) is tightened to specify that an urgent emergency direction should be given to the person to whom the written notice will reply, and the receipt of a response including confirmation a call has been received, must be obtained. This can ensure the correct information has been escalated to an appropriate level of seniority within an organisation, representing the importance of addressing the emergency.

We recommend S75(4), the Emergency Direction is extended beyond 3 business days after the day on which it was issued unless the Minister can confirm an extension within that period, is subject to the terms of S75(3).

Next stages

AMEC eagerly awaits the release of the consultation summary and tabling of the Cabinet submission by the end of July, which will trigger the development of Regulations. Sequential Regulations are a progressive idea, and we are interested in their proposed impact and alignment with a currently proposed two-year review of this framework. We are hopeful it will have sufficient time to be tested, to enable meaningful comment.

AMEC welcomes holistic, robust consultation on the development of transitional provisions, to ensure unintended consequences can be ameliorated prior to Gazettal and commencement of this framework. With a range of projects already preparing to transition to the new framework, it is imperative that certainty can be provided to determine if projects should remain under existing

frameworks and will be exempt from the new Act, the expectations around transition to the new framework for projects at all phases of the planning, assessment and development pipeline, and the proposed extent and remit of exemptions permitted under this framework.

Final comment

AMEC appreciates the ongoing engagement of DEM with industry, to ensure mineral explorer and miner views are considered during the expedited development of the HREA. We welcome continued engagement to ensure genuine, efficient multiple land user access is maintained across South Australia, to enable mineral explorers and miners to work collaboratively with the renewables sector, to deliver a decarbonised state.

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