



**Government  
of South Australia**

Department for  
Energy and Mining

Our Ref: D21012016

Dr Matthew Butlin  
Chair and Chief Executive  
South Australian Productivity Commission  
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Dear Dr Butlin

I refer to the email dated 1 April 2021 from Ms Christine Bierbaum to the Department for Energy and Mining (DEM) seeking input into the South Australian Productivity Commission's inquiry into reform of South Australia's regulatory framework.

DEM appreciates the opportunity to inform the South Australian Productivity Commission's inquiry and supports the aim of identifying ways to better support investment, employment and productivity growth.

Please find attached DEM's submission for your consideration.

If you have any further enquiries, please contact DEM at [DEM.OCE@sa.gov.au](mailto:DEM.OCE@sa.gov.au)

Yours sincerely

  
Paul Heithersay  
**CHIEF EXECUTIVE**

6/5/21

Attachment 1: Department for Energy and Mining's submission to the South Australian Productivity Commission's inquiry into reform of South Australia's regulatory framework

cc: Ms Christine Bierbaum, Deputy Chief Executive, South Australian Productivity Commission - [christine.bierbaum@sa.gov.au](mailto:christine.bierbaum@sa.gov.au)

Chief Executive

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## Attachment 1

### Department for Energy and Mining's submission to the South Australian Productivity Commission's inquiry into reform of South Australia's regulatory framework

#### Executive Summary

Energy and mining is a diverse and significant sector of South Australia's economy, especially in regional areas. Through a series of reforms, South Australia's mining, petroleum and energy laws have been continuously updated to ensure that this state reflects best practice in regulation and provides the certainty required to attract long-term investment. International and national perceptions of these reforms indicate that South Australia continues to be an attractive place to invest with regulations that allow industries to operate here in an efficient and environmentally stable manner. These include South Australia's ranking in the Fraser Institute's annual survey rankings of mining companies and recent Australian Government's Productivity Commission reviews of national mining and petroleum regulation that reported favourably on South Australia's regulatory framework. Notwithstanding these reforms, the Department for Energy and Mining (DEM) is open to recommendations that can assist industry regulators to provide more efficient and effective processes for investors seeking to increase employment and economic activity in South Australia.

This submission seeks to provide a snapshot of the steps taken by DEM to determine how our stakeholders perceive best practice and the legislative and regulatory steps taken to implement any identified opportunities for reform. The submission also seeks to respond to the South Australian Productivity Commission's request for examples of how South Australia may have established an appropriate balance between primary and subordinate legislation, particularly given DEM's recent experience in consulting and implementation of new Mining Regulations 2020 in response to the updated *Mining Act 1971*. Similarly, DEM is in the process of updating the *Petroleum and Geothermal Energy Act 2000* through a consultative process. The submission also outlines the arrangements for rigorously evaluating the effectiveness of these reforms through regular outreach to stakeholders using forums such as the Mining and Energy Advisory Council (MEAC) and the Roundtable for Oil and Gas in South Australia. DEM understands the South Australian Productivity Commission is also interested in identifying barriers or disincentives to repealing or varying regulations once they exist. As the recent history of the amendments to the *Mining Act 1971* have demonstrated, opening any legislation to scrutiny by Parliament provides an opportunity for robust debate.

Australian Government Productivity Commission reports into the resources sector have recently highlighted areas of South Australia's legislation and regulation that are regarded as leading practice. These include the one-window to government approach to regulation and project assessment, in which DEM works with its co-regulators to streamline the process for proponents. The challenges and opportunities that regulators currently face include the better use of technology include artificial intelligence, LEAN processing and machine learning to create more efficient application and assessment processes. Again, this submission highlights recent examples of DEM exploring new ways to harness innovation, including the online consultation process used to undertake public engagement on draft Mining Regulations 2020 during the social distancing constraints required due to the COVID-19 pandemic response.

Chief Executive

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DEM strives for openness and transparency, not only in its regulatory practices but also through its own adherence to continuous disclosure and timely responses to applications through Freedom of Information legislation. In terms of harmonisation of regulations or practice, DEM has contributed to Australian Government reviews of environmental and project assessments laws, and is the lead legislator for the National Electricity Laws.

#### South Australia's international mining ranking

South Australia remains among the world's top performing mining jurisdictions in the Fraser Institute's influential global survey on mining investment attractiveness.

In the 2020 Fraser Institute Annual Survey of Mining Companies, South Australia ranked highly among 77 jurisdictions around the world based on their geologic attractiveness and government policies:

- 7<sup>th</sup> in overall investment attractiveness
- 8<sup>th</sup> in mineral potential, which is a critical factor in future exploration expenditure
- 16<sup>th</sup> in policy perception.

#### The Roundtable for Oil and Gas in South Australia

The Roundtable was established in 2010 and brings together broad-based industry and community organisations. The Roundtable meetings annually to share information about the latest developments in the upstream natural gas and oil sector and agree priorities for action. This then informs government actions to sustain energy security and jobs while protecting social and natural environments.

The global pandemic and collapse in oil price have impacted both the local and global markets. Oil and natural gas have critical roles in the energy market and the market is responding to these most recent challenges.

At the 2019 annual meeting, the breakout sessions revealed additional recommendations for action. In July 2020, Roundtable members were asked to score the materiality and do-ability of 29 directs that covered more than 400 opportunities for action. These scores will be collated and averaged to produce rankings. These ranking will be used by DEM to inform future priorities for action.

#### Petroleum and Geothermal Energy Act 2000

DEM has commenced a review of the *Petroleum and Geothermal Energy Act 2000* (PGE Act) and associated Regulations. This review primarily focuses on enhancing existing provisions that will more effectively and efficiently deliver the objectives and intent of the PGE Act.

DEM regularly reviews the PGE Act to maintain leading practice regulation of the petroleum, gas storage and transmission, and geothermal energy industries in South Australia.

The most recent proposed amendments will expand the scope of the PGE Act to cover pipeline transportation of future fuels such as hydrogen. The South Australian government's commitments in the *Climate Change Action Plan* (released in 2020) to embrace future fuels, presents a need to ensure that appropriate regulatory frameworks are in place for the safe operation of essential infrastructure for such fuels.





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In keeping with this extended scope, and to better reflect the existing scope of the PGE Act for petroleum, gas storage and geothermal activities, the review proposes the title of the PGE Act be changed to the Energy Resources Act.

Other key improvements include:

- Enhancing stakeholder consultation requirements for statement of environmental objectives
- Enhancing the rehabilitation and decommissioning security provisions of the Act
- Introducing Ministerial determinations, to provide more explicit guidance and tailored legislative requirements outside the regulations
- Adding greater flexibility over licences such as the size of the licence area and strata titling
- Aligning the penalties under the PGE Act with comparative regulations within the state and other jurisdictions.

These proposed amendments will maintain the PGE Act as a modern, efficient and effective regulatory framework for the upstream energy industry delivering outcomes that meet both community and investor expectations.

#### Inquiry into resource sector regulation

The Australian Government's Productivity Commission released its report on the resources sector regulation on 10 December 2020. The inquiry examined regulation of the resources sector, identifying issues and leading practice approaches to addressing them.

The focus was on how regulation is designed, administered, and enforced with the key message being that there is room for significant improvement across Australia. The report highlighted a number of areas where South Australia was demonstrating leading practice such as:

- Indigenous land use agreement's (ILUA) for gas and mineral exploration
- Reporting on the share of mining proposals and other approvals finalised within target timelines – providing proponents with information on how long regulatory processes might take, supporting project planning.
- Effective coordination across the state by using costs recovered from resources companies to pay staff in multiple regulatory agencies to support faster approvals and better inter-agency communication.
- Offering a scheme that allows companies to meet their offset obligations by paying into a fund, creating opportunities for better environmental outcomes and cost reductions.
- Fostering a culture that supports ongoing capability development and adoption of modern regulatory practices by reporting on successes and learning from failures.

#### Mining Act review

The *Mining Act 1971* (Mining Act) has regulated the exploration and mining sector in South Australia for over 50 years. Since this time, significant changes have occurred relating to how the mining sector is managed, financed, and regulated.





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As a result, in 2016, DEM led a major review of South Australia's mining laws. This led to the updated *Statutes Amendment (Mineral Resources) Act 2019 (SA) (Act)* being passed by Parliament in late 2019.

The new Mining Act and Regulations commenced on 1 January 2021 and DEM is now implementing a more robust and modern Mining Act for South Australia.

Some of the improvements include:

- increased public engagement requirements that reflect the expectations and concerns of local communities
- stronger compliance and enforcement powers
- more information and support for landowners working with mining and exploration companies
- improve landowner rights
- increase protections for the environment
- deliver more investment and jobs to regional areas, in a way which promotes harmonious co-existence of regional industries.
- landowners will have more time, more legal support, increased access to justice and stronger protections when approached by exploration and mining companies.

Additionally, the mining reforms will increase the value of the state's mineral wealth through revision of lease and license arrangements, streamlining regulatory measures, changing the way exploration license are administered to increase competition and turnover of licenses.

#### Landowner Information Service

As part of the Mining Act review, the need for greater support for landowner interactions with exploration and mining companies to improve early engagement, consultation and information sharing was identified.

DEM has engaged Rural Business Support to deliver a 12-month pilot Landholder Information Service, which commenced in July 2020.

The Service provides a free, independent, factual, confidential and impartial information to South Australian landowners on matters related to exploration, extractive minerals (including quarrying) and mining regulatory practice. The Service does not provide legal, commercial, or financial advice.

As of April 2021, the Service has had 706 direct contacts with stakeholders from the agricultural and mining sectors, state Members of Parliament, local government organisations, Regional Development Australia and Rotary clubs in offices and paddocks across South Australia.

Additionally, the Service has had a total of 47 clients. Feedback from clients on the Service has been overwhelmingly positive:

- the Service has been easy to access, both in terms of local access to advisors and online and telephone access





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- of all landowners completing an entry and exit survey, 100 per cent reported an improvement in their awareness and understanding of the requirements/obligations of resource companies requesting land access
- on intake, respondents self-reported having a “moderate understanding” of their rights and obligations. On exit, respondents self-reported that they were either “extremely aware” or “very aware” of their rights and obligations.

#### Extractives industry supply chain review

The South Australian Productivity Commission undertook a review of the extractives industry supply chain in South Australia in 2020. This review investigated the efficiency and effectiveness of regulation, policies and practices of the extractive (quarry) industry supply chain.

DEM is using the findings to identify opportunities for improving related regulatory and planning frameworks and support a robust and efficient construction and extractives sector.

Together with the changes being made to the Mining Act and Regulations, extractives industry’s review will help improve transparency and reform opportunities that will benefit both communities and industry.

#### Environment Protection and Biodiversity Conservation Act 1999

In 2020, DEM worked with the Australian Government to review the *Environment Protection and Biodiversity Conservation Act 1999* with the aim of streamlining administration of the legislation.

#### Electronic Certificate of Compliance (eCoC)

South Australia’s Office of the Technical Regulator (OTR) has transitioned from the previous paper-based process for electrical, gas and plumbing certificates of compliance to an automated, digital, and online system called eCoC.

In preparation for the use of eCoCs, changes were required to the *Electricity (General) Regulations 2012* and the *Gas Regulations 2012*. Changes were also required to the Plumbing Certificate of Compliance Scheme established by the Technical Regulator under section 69(2) of the *Water Industry Act 2012*. These changes were completed in late 2016 and mainly consisted of removal of references to paper forms, to allow eCoCs to be valid.

The eCoC system is free for electrical, gas and plumbing contractors and workers, and enables them to complete, submit, store and refer to certificates of compliance online. Contractors and workers can access the eCoC system via the internet from desktop and mobile devices. A one-time registration needs to be completed to use the eCoC system. Contractors and workers need to provide professional registration/licence number and expiry date, email address, a password and contractor/worker details.

In 2019-20 OTR developed industry training and support tools with the release of online detailed eCoC user guides.

Further work will be undertaken to build on the functionality provided by eCoC to improve the regulatory regime for government and business.





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### Review of the Electricity (Principles of Vegetation Clearance) Regulations 2010

The *Electricity (Principles of Vegetation Clearance) Regulations 2010* set out how vegetation must be kept clear of powerlines, most commonly by the South Australian electricity network companies including SA Power Networks and ElectraNet and are administered by the OTR.

The Regulations expire on 1 September 2021. In 2019-20, OTR reviewed and consulted on significant changes to the regulations. The changes proposed are pragmatic updates to improve the effectiveness and efficiency of the arrangements.

### Off-shore renewable energy

DEM is leading a South Australian working group involving key government agencies which is assessing off-shore energy policy development including land tenure, visual impacts, environment impacts, how off-shore wind could coexist with other users of the marine environment (such as fishing, aquaculture and shipping) and potential application of a royalties regime.

An outcome of the working group will include a review of existing legislation and approval pathways, together with an analysis of the options for potential legislative amendments and the development of assessment codes and guidelines.

### Select Committee on land access

A South Australian Parliament Select Committee has been established to inquire into and report on land access regimes as they relate to mining and mining exploration under the *Mining Act 1971*, the *Opal Mining Act 1995* and the *Petroleum and Geothermal Energy Act 2000*. A report is due in November 2021.

### Petroleum Retention Licences

Since 2013, the South Australian government has enabled industry to apply to convert Petroleum Exploration Licences, which fall within known proven productive oil and gas play trends in the Cooper-Eromanga Basins, to Petroleum Retention Licences.

The conversion into a Petroleum Retention Licences provides security of tenure along with accelerated, focused exploration investment at market competitive levels.

The conversion of eligible Petroleum Exploration Licences to Petroleum Retention Licences in both oil and gas plays in the Cooper-Eromanga Basins has generated in excess of \$500 million in exploration and appraisal investment since 2013.

