



16 October 2020

The Hon. David Basham MP
Minister for Primary Industries and Regional Development
GPO Box 1671
Adelaide SA 5001

Dear Minister,

The South Australian Chamber of Mines and Energy (SACOME) is the peak industry body representing companies with interests in the South Australian minerals, energy extractive, oil and gas sectors and associated service providers.

SACOME recognises that the *Draft Pastoral Lands Bill 2020* (the Pastoral Bill) has been developed further to the Department of Primary Industries and Regions (PIRSA) consultation on the *South Australia's Pastoral Rangelands Discussion Paper* (the Paper).

SACOME's submission¹ to the Discussion Paper focused on three areas of concern identified by member companies, namely:

- Object and Values of the Pastoral Act;
- Land Access and Dispute Resolution; and
- Interaction and Alignment with other Legislation

Object and Values of the Pastoral Act

SACOME notes that the Pastoral Bill makes two amendments to the Objects of the Act.

The first amendment at section 5(f) states the Act is "*to provide for alternative land uses to support the economic sustainability of pastoralism (where that is not substantially inconsistent with the other objects of this Act)*".

The second amendment removes the previous Object in relation to the operation of windfarms, as windfarms are now captured under the new definition of an 'alternative land use'.

SACOME submits that these changes, if enacted, would limit the scope of Pastoral leases to be used for non-pastoral purposes further than the current legislative regime.

1

https://www.sacome.org.au/uploads/1/1/3/2/113283509/sacome_pastoral_act_review_submission_final_september_2019.pdf

While Section 27 of the Pastoral Bill provides the Pastoral Board (the Board) the express power to approve a use of land that is inconsistent with pastoral purposes, the Board in exercising this power must still consider the overall Objects of the Act.

The Objects set out in the Pastoral Bill would constrain the power of the Board to permit the use of pastoral leases for environmental offsets, and other resources sector-related land uses (such as carbon farming), if the Board considers the use does not support the economic sustainability of pastoralism.

SACOME member companies have indicated the inability to use pastoral leases for such activities could have significant implications for resources sector projects in South Australia's rangelands.

SACOME submits that the Pastoral Bill should be amended to provide an express power to approve resources sector use of pastoral leases for environmental offsets and other land uses relevant to and necessary for resources sector activity.

In its submission to the Discussion Paper, SACOME commented that the Paper had a strong focus on increasing agricultural productivity on pastoral lands and this focus contrasted with an overall State objective of realising 'greatest value' land use, which may not be agricultural.

SACOME submits that the Pastoral Bill should be amended to facilitate the outcome of 'greatest value land use' in a manner that better balances supporting pastoralism with land access for a wide range of industries that can provide additional income support for pastoralists.

SACOME reiterates that a concept of 'beneficial use for the State' should be incorporated as an object of the Act to better facilitate diverse economic and environmental outcomes on pastoral land.

Land Access and Dispute Resolution

SACOME submits that greater opportunity exists to streamline dispute resolution processes under the Act through further refinement of the Pastoral Bill.

SACOME's submission to the Discussion Paper highlighted that under the *Mining Act 1971 (SA)*, (the Mining Act), the Environment Resources and Development (ERD) Court provides a well-defined pathway for dispute resolution; and that a similar approach should be contemplated for the Pastoral Bill, including consideration of compensation for land loss based on the impact of that land loss to the property.

SACOME submits that the Pastoral Bill should be amended to provide a similar dispute resolution mechanism as the Mining Act, establishing an efficient and equitable process for both resource sector operators and pastoralists.

Interaction and Alignment with other Legislation

SACOME submits that the Pastoral Bill has not considered greater alignment with the *Native Vegetation Act 1991 (SA)*, the *Development Act 1993 (SA)*, the *Planning, Development and Infrastructure Act 2016 (SA)* and the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. SACOME reiterates the following comments made in response to the Discussion Paper:

Native Vegetation Act 1991 (SA)

This Act creates Significant Environmental Benefit offsets; on ground offsets are preferable for resources operators, however, it is difficult to put land into conservation under the Pastoral Act.

Development Act 1993 (SA)/Planning, Development and Infrastructure Act 2016 (SA)

Securing land access for approved infrastructure is limited under the Pastoral Act (with exception of wind farms). Ministerial consent is the fallback to resolving any impasse and is an inefficient method of dispute resolution. The Pastoral Act could be amended to better facilitate the objects of the Development Act/Planning, Development and Infrastructure Act where appropriate.

Environment Protection & Biodiversity Conservation Act 1999 (Cth)

The EPBC Act requires offsets for affected species; and requires on ground offsets of similar habitat surrounding a mine site; this is difficult to achieve given the limitations of the Pastoral Act.

SACOME submits that the Pastoral Bill be amended to better align with resources sector needs under these Acts.

Other Comments

SACOME member companies have noted two examples in PIRSA's consultation documents that are at odds with the South Australian Government's Multiple Land Use Framework.

The PIRSA's Summary of Changes document states that an objective of this process is to *"retain the main focus of the land. The pastoral rangelands are for pastoralism and any other land uses should not detract from this primary use."*

In contrast, the Explanatory Guide states that *"permitted and non-permitted land uses haven't been strictly defined, rather each case will be assessed on its own merits. There will likely be a future policy or guideline developed to guide lessees and an application form outlining what information will be required..."*

SACOME submits that the Pastoral Bill should reflect and clearly state that other uses are allowed; and that PIRSA's documentation should unambiguously reflect Multiple Land Use Framework principles.

Conclusion

In advocating for greater flexibility of pastoral land use for resources sector operators, SACOME reiterates the importance of coexistence with pastoralists and its commitment to working collaboratively to develop a framework that enables use of pastoral land in an equitable and efficient manner.

SACOME welcomes the opportunity for continued involvement in the Pastoral Act review process.

Kind regards



Rebecca Knol
Chief Executive Officer