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**Planning for the Future of South Australia's
Pastoral Rangelands Discussion Paper**

Submission to PIRSA

September 2019

South Australian Chamber of Mines & Energy

The leading industry body representing the resources sector in South Australia

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1. Introduction

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 member companies are a cornerstone of the South Australian economy, with their combined activity generating the following key economic outcomes:

- \$6.1 billion in production value;
- 33% of exports from South Australia worth almost \$4 billion, making it the highest value export sector in the State;
- \$1.6 billion in Capital Expenditure investment in new mines and petroleum projects;
- Direct and indirect employment of 26,800 South Australians; and
- \$1.2 billion in royalties to the South Australian Government over the next five years.¹

SACOME recognises that this review of the *Pastoral Land Management and Conservation Act 1989* ('Pastoral Act') is being conducted alongside other strategic planning initiatives across key economic portfolio areas, including the South Australian Growth Agenda; the Regional Development Strategy; and the 20-Year State Infrastructure Strategy.

SACOME member companies are key stakeholders in South Australia's regions, with resources projects located in the Regional Development Australia areas of the Far North; Yorke and Mid North; Whyalla and Eyre Peninsula; and the Limestone Coast.

As regional stakeholders, SACOME member companies invest in their communities through employment, procurement of goods and services, community partnerships and sponsorships, contribution to regional infrastructure and provision of mineral and petroleum commodities to regional supply chains.

In 2019 SACOME launched its '2024 Vision' which maps a path for future development of the South Australian resources sector. The document outlines the substantial contribution the sector makes to the South Australian economy and the strategic investments required to harness future growth.

Importantly, the 2024 Vision emphasises support for regional communities and commits the sector to a range of social and economic outcomes aimed at benefiting South Australia's regions. SACOME recognises the importance of the State's pastoral rangelands in this regard.

¹ SACOME 2024 Vision p.12 (<https://www.sacome.org.au/2024-vision.html>)

SACOME welcomes the State Government's coordinated approach to formulating cross-portfolio strategies aimed at driving economic growth outcomes for South Australia and the opportunity to provide comment to the Pastoral Act review process.

2. Comment

SACOME submits the following comment in response to issues raised in the *Planning for the future of South Australia's Pastoral Rangelands* Discussion Paper sourced through consultation with SACOME member companies.

By way of preface, SACOME states its strong support for the principle of coexistence with pastoralists; and the principle of 'no detriment' to natural resources.

Given the complexities of non-pastoral land use and the many stakeholders non-pastoral activity encompasses, SACOME proposes a Roundtable that brings together stakeholders to jointly progress discussion on key issues as the next step in the consultation process.

2.1 Object and Values of the Pastoral Act

The general feedback from SACOME members is that the Pastoral Act is seen as outdated and inflexible. As such, SACOME supports the objectives of modernising the Act and better facilitate greater diversity of land use.

SACOME notes that the Discussion Paper has a strong focus on increasing agricultural productivity on pastoral lands, principally through growing the red meat and wool industries. SACOME strongly supports this important industry growth goal, however, this objective contrasts with realising the 'greatest value' land use, which may not be agricultural.

Tourism, commercial provision of significant environmental benefit (SEB) offsets, resources sector activity, carbon farming and other emergent activities may represent higher value uses of pastoral land.

SACOME members have commented that the Act in its present form is equally inflexible for all stakeholders and doesn't provide a ready mechanism for innovative approaches to land use.

The principle of 'greatest possible flexibility' of land use is strongly supported. SACOME submits that the review should consider how to better accommodate mixed/shared land use within pastoral leases to fully realise 'greatest value', including how pastoral lands could be used to mitigate the impacts of climate change. SACOME member companies interact with pastoral lands in many ways including:

- As pastoral leaseholders;
- In negotiating land access for exploration and mining activities; and infrastructure development;
- In meeting environmental obligations including Significant Environmental Benefit (SEB) offsets;
- 'New industry' development including carbon farming and renewable generation.

The review should assess the profitability of different enterprises on pastoral land and identify opportunities for creativity in land use. For example, the carbon economy offers millions of dollars of potential value and provides opportunities for community and Aboriginal economic development.

In considering the objects of the Act, the review process should consider including rights for other industries to access pastoral land with the important caveat that relevant laws governing those industries are adhered to. To support this outcome, guidance could be given to the Pastoral Board to better assist it in understanding and assessing non-pastoral use.

The review process should also be informed by a broad 'statement of values' that advances the objective of viable regional economies through best value land use, rather than just a narrow focus on agricultural use of pastoral lands.

SACOME submits 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.

2.2 Land Access & Dispute Resolution

As a general principle, SACOME calls for better-defined and faster dispute resolution processes under the Act.

Under the current Act, the pastoral leaseholder consent is necessary to access and use pastoral land. As such, reaching agreement is critically important for non-pastoral land use. Where negotiation is refused or where agreement can't be reached, the only recourse is Ministerial approval.

Pastoral leases remain Crown land, however, the Crown's rights to land are transferred to the leaseholder for the duration of the lease. This excludes the government from resolving access disputes in a practical sense as, where agreement can't be reached, operators are reliant on Ministerial approval to ensure that development of infrastructure necessary for major projects can occur.

The result is that dispute resolution under the Pastoral Act can be more complex and time consuming due to less available avenues for prompt resolution than under other legislation.

This presents difficulties in terms of time and cost delays where development of linear infrastructure like power lines, gas and water pipelines are concerned, for example.

Under the *Mining Act 1971*, the Environment Resources & Development Court provides a well-defined pathway for dispute resolution. A similar approach might be contemplated as part of the Act review process and include consideration of compensation for land loss based on the impact of that land loss to the property.

Similarly, a streamlined permitting system may provide an approach that allows for speedy approval of non-pastoral activity.

2.3 Interaction & Alignment with other Legislation

SACOME member companies have drawn attention to the fact that the Pastoral Act interacts with a number of other significant pieces of legislation.

As such, consideration should be given to this interaction and what opportunities there are for greater alignment. Relevant comment is made below.

This legislation includes:

- *Mining Act 1971 (SA)*.
- *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.
- *Natural Resources Management Act 2004 (SA)*
- *Development Act 1993 (SA)*

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

- *Crown Lands Act 1929 (SA)*

Resolution of mutual rights issues under the Crown Lands Act is made difficult by the operation of the Pastoral Act, under which pastoralists have a principal right to refuse land access.

- *Environment Protection & Biodiversity Conservation Act 1999 (Cwth)*

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.

- *Pastoral Land Management and Conservation Act 1989 (SA)*

Division 4 of the Pastoral Act provides certainty on the treatment of a specific non-pastoral land use in the specific case of wind farms. This section of the Act could be used to as a guide in developing frameworks for other non-pastoral land uses.

It is important to stress that a 'Division 4-style' approach should be focused on enabling new types of activity without the unintended consequence of creating new bureaucracies and/or avenues for legal challenge under the Act. Rather, SACOME submits that it should be guided by the principles of highest value land use; and beneficial use to the State.

3. Conclusion

SACOME supports the Pastoral Act review process and PIRSA's objective of deriving greatest value use of the State's rangelands.

SACOME agrees that a model of management is needed which allows the greatest possible flexibility for leaseholders, enables adaptation for future conditions and technologies, and preserves the land condition for productive use

In advocating for greater flexibility of pastoral land use, 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 further involvement in the Pastoral Act review process.