



Your strong and independent  
voice for livestock producers

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## **Leading Practice Mining Acts Review**

Livestock SA welcomes the review of the State's mining legislation. However, it is disappointing that the *Petroleum and Geothermal Energy Act 2000* is not included in this Review.

Livestock SA represents South Australian sheep, beef cattle and goat producers. Currently Livestock SA has over 3,000 members across the State. There are two strong regional groups within Livestock SA – the Southern Region covering the livestock areas in the South East of South Australia, and the Northern Region which cover the pastoral lands of this State.

As a member organisation, Livestock SA needs to represent its members, some of whom have been affected by mining and gas exploration and activities.

### **PPSA 'Mining and Gas Statement of Principles'**

Livestock SA is one of the five commodity members of Primary Producers SA (PPSA). The other four members are Grain Producers SA, Horticulture Coalition of SA, SA Dairyfarmers Association and Wine Grape Council of SA.

Mining and gas exploration and developments on primary production land have become issues for many primary producers. Many concerns have been raised with PPSA and the commodity associations. While to date, these concerns have been raised particularly from the South-East, Yorke Peninsula and Eyre Peninsula regions, other areas of the State including the pastoral region also do not have good relationships with the mining industry. The PPSA NRM Committee has met with the SA Government Department with responsibility for the regulation of mining and gas activities. PPSA has subsequently developed a statement of principles relating to mining and gas issues. (Attachment 1).

As a member of Primary Producers SA, Livestock SA supports PPSA's Mining and Gas Statement of Principles and asks that the Review consider the 13 recommendations that accompany the Statement of Principles.

In addition, as many broadacre farmers have both cereals and livestock, Livestock SA supports the submission made by Grain Producers SA (*may need to modify this statement after seeing GPSA's submission*).

### **Discussion Paper on the Mining Act 1971 and Regulations**

It is a pity this Discussion Paper was prepared by those in the then Department of State Development dealing with mining. This soon becomes apparent as in the discussion landowners are either not mentioned or added as an afterthought. And yet it is landowners who are among the first and most directly affected by the activities of the mining industry.

There is concern in the Discussion Paper about providing security of tenure for mining operators to protect their investment and to assist in obtaining finance. Surely landowners need this too.

The Review is seeking to cover eight main aspects (pages 8 and 9), and yet any discussion on land access is only listed as the sixth of these. It is obvious that land access is taken for granted by the mining industry and any rights of the landowner are secondary.

According to the Discussion Paper, the first main point is to “bring forward the economic and social benefits of the state’s mineral wealth for citizens, landowners, traditional owners, mining communities and miners.” And yet by its very nature mining cannot continue indefinitely and all mines have a shelf-life. Surely there needs to be a balance between what mining can achieve and the current land use? And in the case of agriculture, this is a sustainable long term industry continually supporting the State.

The Discussion Paper highlights on page 15 the importance of early and ongoing stakeholder/community engagement. Unfortunately, feedback from livestock producers is that this does not always happen. Livestock producers are not anti-mining, but they need to see that their rights to continue to farm and/or to be fairly compensated are acknowledged not only by legislation but by the actions of both the mining companies and the government bureaucrats involved in administering mining. Even in the pastoral region, producers feel that they are second rate compared to those in the mining industry. One Livestock SA member has expressed it in these words:

*“The junior and the top end players are generally the worst. If you don’t care/haven’t got time to push for your rights and compensation, then generally they aren’t a problem. Pastoralists are at the bottom of mining companies’ liaison groups, well below aboriginal groups and native veg issues. I have lost track of how many hours that we have put into dealing with mining companies over the last 15 years. Continuity of contact with mining companies changing personnel is always an issue.”*

### **Land access**

The current Mining Act is intent on giving the mining industry easy land access rights. This Review needs to attempt to readdress this situation. The Discussion Paper may state that “a robust land access regime is currently in place” (page 20) but this is not always the opinion of primary producers who are landowners.

To improve land access, consideration needs to be given to how this can be done fairly so that everyone benefits. Consideration needs to be given to having a mining ombudsman to assist in resolving disputes as well as what are the best court processes.

Perhaps it is also time for not only adequate levels of compensation, but land acquisition procedures need to be included in the legislation, even the need to compulsorily acquire land. The Discussion Paper quotes the CSIRO as calculating the cost of land access conflict of up to \$50,000 per day (page 23). While not knowing how this figure is derived, this is an unnecessary cost that could be easily reduced by improving the land access arrangements.

The State Government has recently announced that 10% royalties will be available for landholders as part of the process to encourage gas exploration and extraction. While Livestock SA does have

concerns about this, if there are going to be royalties for landowners, these should extend to mining activities as well.

### **Entry to land**

As indicated Livestock SA represents pastoralists. They currently operate under 42 year pastoral leases. Livestock SA is currently considering how the length of these leases can be increased, with some pastoralists indicating their preference would be for 100 year leases. In readiness for any increase in the length of pastoral leases, now would be an ideal time to put pastoralists on the same footing as those landowners with freehold land. While pastoralists do not own the land they operate on, they do invest considerable funds for infrastructure improvements particularly secure water supplies, and they should be treated like any other landowner.

In relation to 'exempt land' while this is a very misleading term, Livestock SA would like to see Section 9 amended to state "land that is lawfully and genuinely used as a yard or garden or for agriculture, horticulture or viticulture" so that the definition comprehensively covers agricultural, horticultural and viticultural operations and most importantly for livestock producers would include grazing. This is the second recommendation of PPSA.

### **Biosecurity**

The mining industry, and the Government Department that administers mining, needs to be aware that all primary producers are being encouraged to improve their biosecurity practices. Farm biosecurity is a set of measures designed to protect a property from the entry and spread of pests and diseases.

Currently Livestock SA is working closely with PIRSA's Biosecurity SA in developing a 'One Biosecurity' program where livestock producers will score based on the biosecurity practices on the farm, as well as on the disease status. As part of this process PIRSA's Chief Veterinary Officer suggested that producers receive 'credit points' for having as a good biosecurity practice all gates on a property locked.

For effective biosecurity, producers do need to control who enters their property by limiting entry points (one entry point is preferable) and locking restricted areas. This is a necessary measure to be able to maintain Australia's export markets. All producers need to develop a 'lock the gate' attitude for biosecurity reasons.

In negotiating access arrangements with landowners, the mining industry needs to factor in any restrictions as well as take any additional precautions that may be required including washing equipment, wearing protective clothing, and even having to use the landowners' vehicles and machinery if there is a biosecurity policy that other vehicles and machinery are not allowed on the property.

It is noted that the Government can require explorers and operators to give a security bond to the Minister to cover rehabilitation. This should be expanded to include biosecurity.

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## Mining and Gas Statement of Principles

It is vital that decision-making on mining and gas projects is underpinned by a robust knowledge base and that local communities are well informed to determine their own positions on proposals. Local communities should have their interests respected and not overridden or ignored by outsiders.

PPSA supports the following principles:

- The profitability and long-term sustainability of food and fibre production must not be compromised.
- Australia's reputation for safe, clean quality food must not be compromised.
- Water resource quality and quantity should not be compromised.
- Social, economic and environmental outcomes must not be compromised.
- A long-term view must be taken in assessing mining and gas proposals, considering any possible long-term impacts and seeking to prevent significant negative impacts over a long timescale.
- The key to productive relationships between agriculture and mineral and petroleum industries is relationships built on genuine trust and goodwill and appropriate community engagement.
- Landholder rights impacted by mineral and petroleum licences must be protected by strong regulatory frameworks.
- Land access agreements should recognise landholder and occupier property rights, and the negotiations must be respectful of farmers.

Community engagement must be consistent with the following principles:

- Transparency and full disclosure;
- Early and ongoing collaboration;
- Inclusiveness;
- Ethical and responsible business practice;
- Integrity and appropriate behaviour;
- Capacity building; and
- Listening and responding to community concerns.

Any land access agreements should include:

- Appropriate recompense for the full range of costs;
- Clear agreements with landholders regarding the disposal and acquisition of any exploration or extraction licence;
- Mining practices including compliance with drilling legislation and regarding the use of chemicals;
- Biosecurity requirements;
- WH&S requirements;
- Rehabilitation of land;
- Appropriate long-term insurance and bond arrangements;
- Arrangements for normal agricultural operations; and
- Any and all conduct while operating within the landscape.

## Legislation

It is noted that the *Mining Act* provides specific protections for primary producers, whereas the *Petroleum and Geothermal Energy Act* focuses largely on the development of a Statement of Environmental Objectives (which can include financial or socio-economic objectives).

It is recommended that:

- Greater equity needs to be achieved between water management policies for agriculture, horticulture and viticulture and for mining, gas and forestry activities. Mining and petroleum exploration and extraction activities must not compromise water resources for other industries and future generations.
- Section 9 of the *Mining Act* should be amended to state “land that is lawfully and genuinely used as a yard or garden or for agriculture, horticulture or viticulture” so that the definition comprehensively covers agricultural, horticultural and viticultural operations (including grazing).
- PIRSA, PPSA and affected landholders should be included with the bodies (or people) to be consulted on the Statement of Environmental Objectives under regulation 12 of the *Petroleum and Geothermal Energy Act*.
- Consideration should be given to provisions for landholders in close proximity to mining and gas operations, who are impacted by the operations.
- Provisions in either Act relating to public notification by newspapers should be amended to include notification of key stakeholders (which would include PPSA) by more modern methods (e.g. email).
- The Minister must be certain that there is no damage – and that there is likely to be no damage which occurs, or is discovered, in the future as a result of the mining/gas activities – before approving the relinquishment of licences and releasing bonds. Landholders should not become liable for any negative impacts of mining or gas activities.
- There should be appropriate appeal provisions and mechanisms in place.
- Costs for dispute resolution (including legal, valuation and other costs) should be covered by the mining or gas proponent up-front or as they arise.
- Penalties must be of an appropriate magnitude, proportionate to risks, and to impose an adequate disincentive for negative impacts.
- Compliance reports are published by DMITRE for activities under both the *Mining Act* and the *Petroleum and Geothermal Energy Act* in a timely manner.
- Important documents such as Environmental Impact Reports, Statements of Environmental Objectives and Programs for Environment Protection and Rehabilitation, as well as licence conditions, should be publicly available and readily accessible.
- Mining and gas/petroleum legislation should be reviewed from time to time, with reference to best practices in other jurisdictions.
- Land use planning decisions should be made by the relevant planning authorities. Mining and gas activities which do not comply with development plans should not be exempt from planning approval requirements.