



Your strong and independent
voice for livestock producers

Livestock SA Inc. ABN: 12 332 656 991

Adelaide Showground - Heavy Horse Memorial Building, Leader Street, WAYVILLE SA 5034
PO Box 211, GOODWOOD SA 5034
P: 08 8297 2299 | F: 08 8293 8886 | E: admin@livestocksa.org.au | W: livestocksa.org.au

SUBMISSION

10 February 2023

Hydrogen and Renewable Energy Act Engagement
Department for Energy and Mining
GPO Box 320
ADELAIDE SA 5001

Via Email: DEM.Legislation@sa.gov.au

Dear Sir / Madam

Re: Hydrogen and Renewable Energy Act

Livestock SA is the peak industry organisation for South Australia's red meat and wool industries. There are over 5,200 sheep producing businesses and more than 2,700 beef cattle producing businesses in the state. With a membership of over 3,500 sheep, beef cattle and goat production businesses, we work to secure a strong and sustainable livestock sector in South Australia.

Livestock SA is a member of Primary Producers SA (PPSA) and is the South Australian member of four national peak industry councils: Sheep Producers Australia, Wool Producers Australia, Cattle Australia and Goat Industry Council of Australia. Through PPSA and the Peak Councils, Livestock SA is also a member of the National Farmers' Federation.

Livestock SA commends the South Australian Government's proactive pursuit of low-cost renewable energy for our state. SA's Beef and Sheep Industry Blueprints identify pathways to carbon neutrality by 2030 (CN30) as a clear goal to maintain our clean, green image from the consumers' perspective. However, the cost of meat processing in SA is one of the highest in the world, due in part, to high energy costs. Lower energy prices and greater access to reliable renewable energy will boost our sector's competitiveness in the most lucrative global markets. We welcome the opportunity to provide a submission to the development of South Australia's first 'Hydrogen and Renewable Energy Act'.

Background

The South Australian red meat and wool industries are the backbone of the livestock and meat processing sectors, which contribute \$5.4 billion annually to our state's economy. The red meat and livestock industry has been more proactive than any other agricultural industry on setting goals and measuring its sustainability. Since 2005, the industry has reduced emissions by almost 60 per cent and halved its contribution to national greenhouse gas emissions – the greatest reduction by any sector in Australia's economy. In 2017, the industry set a target to be carbon neutral by 2030 (CN30)

and it is making solid progress towards realising this goal. Lamb production is already climate neutral, and we are getting closer to being climate neutral for beef.

There is a wide range of livestock production systems in SA including extensive rangeland grazing, mixed cropping and intensive livestock grazing, pasture-fed and feedlot finishing systems. Red meat and wool production across South Australia's pastoral rangelands, which covers approximately 40 per cent of the state, are essential to the economy and the wellbeing of regional communities. In addition to livestock production and providing much needed regional employment, pastoralists also perform a critical function in environmental stewardship. A Hydrogen and Renewable Energy Act must contain effective provisions that enable coexistence of land uses and support fair outcomes for landowners/lessees, communities and other pre-existing land rights and uses.

Livestock producers are custodians of more than 50 per cent of the State's natural resource base. As the largest land custodians in SA, livestock producers will by default also be farming some of the most optimal locations for wind and solar farms across our state, as well as the land required for critical supporting infrastructure and access. It is therefore essential that livestock producers are involved in the development of this legislation and subsequent decisions around optimum sites and associated conditions for land release to renewable energy developers.

Our members are already being approached regularly in an ad-hoc way by renewable energy companies wanting to develop initiatives on their land. Producers would benefit from a more structured, regulated and consultative approach which supports informed decision-making about the opportunities being presented.

Response to Questions for Discussion

Livestock SA has assumed that the term 'landowner' includes pastoral lease holders (*as per page 26, Issue 14, para 2.*)

Issue 1 – Objects of the Act

Livestock SA supports the proposed objects, with the following additions.

Recommendations

Dot points 1 and 2: expand to include the decommissioning phase. This is critical as many of the materials and components used in renewable energy generation are toxic and not able to be recycled.

Dot point 5: change 'promote' to 'regulate'. This is also critical as there have been numerous cases of poor waste disposal and environmental management within the relatively young renewable energy sector.

Addition required: Livestock SA recognises and supports the need to include explicit consultation and agreement in the Act with the traditional owners of the land. However, we understand that the Act also aims to secure successful co-existence with existing land uses on Crown Land, including pastoral grazing. Consequently, we believe that the consultation requirement should be expanded to seek partnership and collaboration with all current users of the land including pastoralists, many of whom have been custodians of the land for generations.

Furthermore, the objects should include the provision of a reliable source of evidence-based and objective advice for landowners (freehold and other) to secure information essential for informed and timely decision-making.

Issue 2 – Renewable energy

Livestock SA considers the definition proposed is too narrow and may have unintended consequences. For some time, renewable or clean energies have included solar, wind, geothermal and biomass. Among the ‘traditional’ renewable energy sources, biomass plays an important role. The International Energy Agency has defined biomass as biodegradable components including agricultural products and waste, forests and related industries, and municipal and industrial decomposable waste. Biomass is the only renewable energy source that can be used to generate electricity, heating and cooling in solid, liquid and gas. In some developing countries, biogas is prevalent as a source of renewable, clean, and cheap energy. It could be argued that biomass is ‘depleted’ through energy production, but it is a well-recognised and valuable renewable energy source.

Issue 3 – Renewable Energy Priority Areas (REPA)

Livestock SA supports the intended process, on the assumption that the ‘landowners’ consulted during the process include the pastoral lessees.

Recommendations

Dot point 7: greater clarity needed on what this will encompass. Objective assessment of the impact on farming activities at this early stage would support the development of appropriate conditions and compensation up-front. Any developer can then factor in any conditions and compensation required within the REPA before they apply to develop it. Landholders will also have the peace of mind of being assured of the conditions and compensation, regardless of the winner of the renewable energy contract.

Issue 5 – What is not covered by the Act

Livestock SA understands that this Act aims to complement (not replace) existing legislation which is working well and supports this principle.

Recommendations

Livestock SA understands that ‘small-scale’ projects are not intended to be covered by this Act and that it will be up to the Minister’s ‘discretion’ to decide on ‘exemptions’. We believe that the legislation would benefit from the inclusion of a definition for ‘small-scale’ in the supporting regulations, where it can be more easily amended if needed as the initiatives are rolled out.

Furthermore, if exemptions are to be decided at the discretion of the Minister, they should be advised by an appropriate panel of experts representing the broad interests of the community, including landowners. The decision-making process should be supported by a framework to ensure transparency and equity.

Issue 8 – Renewable Energy Feasibility Licence (REFL)

Livestock SA supports the principles encompassed in the proposed REFL but believes some refinement is required.

Recommendations

Dot point 4: reference should also be made to the impact on the landowner (pastoral lease holder) and their production capability.

Given that this is a relatively new industry and governance approach, and new licences will be issued, the size and the time-length of REFLs may be better defined in the supporting Regulations (in preference to the Act) so they can be more easily and quickly amended as the sector progresses and more is known about what is appropriate.

Automatic renewal of REFLs should only be permitted when an existing REFL holder has demonstrated appropriate progress and adherence to the conditions of the licence. Application for renewal should be advertised and stakeholders (including landholders) should have the opportunity to object to licence renewal.

The 'technical and financial capacity of applicant, including operational capability' should explicitly include the licence-holder's ability to decommission appropriately and fulfil their compensation obligations if their exploration fails.

Issue 9 – Renewable energy Infrastructure Licence (REIL)

Livestock SA supports the principles encompassed in the proposed REIL but believes some refinement is required.

Recommendations

Livestock SA understands that the Act will include Ministerial power to revoke a licence should the licensee 'prove not to be satisfying project milestones or objectives or any of the selection criteria'. This should include any agreements made with, or the payment of any compensation due to, the landholders. There should be a robust mechanism for pastoralists and other stakeholders to lodge complaints against REIL holders and the assurance of a timely and evidence-based response. This needs to be covered through the financial assurance requirements put in place.

Size, term and automatic renewal of REIL – please refer to Livestock SA comments about REFL under Issue 8.

Issue 10 – Hydrogen Generation Licence (HGL)

According to the Issues Paper, the HGL licensee will be required to '*acquire an interest in the land over which the HGL will apply. For example, an interest in land can take the form of an easement, land purchase or lease.*' Livestock SA seeks clarification on how these required acquisitions may impact producers who have an existing lease or freehold of the land ear-marked for development. We request further information on the proposed consultation, negotiation and compensation processes.

Furthermore, if the size and length of HGL is to be decided at the Minister's discretion, a transparent, robust and equitable decision-making framework needs to be in place, supported by appropriate advice from a panel of relevant experts and stakeholders.

Issue 12 – Environmental and social impact assessment process (stage 2)

Livestock SA understands that this process requires the licensee to 'undertake an environmental and social impact assessment' and that the definition of 'environment' includes: 'natural, economic,

social, cultural and visual amenities’. We support the proposal to utilise provisions under the SA Planning, Development and Infrastructure (PDI) Act to complete the assessment, with some reservations.

Recommendations

The definition of ‘environment’ should be expanded to include agricultural production – pastoral lease holders are generally responsible for providing the environmental services as part of their business operations across the pastoral areas of the state.

Care should also be taken to ensure that the provisions under the PDI Act allow for broader impact of developments on (for example) aquifers, natural surface-water flow, erosion, etc., all of which could potentially be impacted significantly more than the currently defined ‘adjacent land’ of 60 metres away.

Issue 13 – On ground activity approvals (Stage 3)

Livestock SA understands that there will be a requirement for the licensee to ‘engage and address any landowner concerns or interests’ at this late stage (where ‘landowner’ includes pastoral lessees).

Recommendations

We further stress the need to consult and secure agreements with landholders much earlier in the process – at Area Identification stage.

Issue 14 – Land within a Renewable Energy Priority Area (REPA)

Livestock SA supports both the continued requirement for a licensee to enter into an access agreement with the pastoral lessee, and the proposed framework for determining appropriate conditions and compensation. The three dot points need much greater detail to understand the how the notification, dispute resolution and compensation processes will work in practice.

Issue 15 – Freehold land

SUPPORT.

Issue 18 – Fees, charges and benefit sharing

Livestock SA supports the intent is to charge rent to licensees for the use of Crown Land, to align with current pastoral lease holders. We also welcome the proposal to channel a portion of this rent to the Pastoral Land Management Fund to ensure ongoing conservation and improvement of the pastoral land estate efforts are better resourced.

Other

Livestock SA notes that the *Pastoral Land Management and Conservation Act 1989* (the Pastoral Act) will no longer regulate large scale renewable energy development on pastoral land but will continue to regulate small scale developments that do not meet the threshold under the Hydrogen and Renewable Energy Act. However, the large scale threshold is unclear, the rationale for how this is determined unknown, and the parameters of any review process or ability to alter it over time are not explained.

Livestock SA welcomes the government's intent to complete further work to gain a clear understanding of the potential impact of renewable energy development on pastoral lessees and requests that Livestock SA be consulted during the process.

Summary

Livestock SA understands and supports the introduction of tailored legislation designed to create a 'one window to government' approach to address the emerging issues in the Hydrogen and Renewable Energy sector. We support the intention of the proposed Act to:

- Actively support successful co-existence with current land uses, including grazing and carbon-farming.
- Recognise and respect the rights, business investments and environmental stewardship responsibilities of existing landowners/lease holders.
- Respect the efforts of existing landowners/lease holders who have enhanced soil and vegetation sustainability and habitat diversity, by aiming for net environmental benefit when assessing renewable energy development applications.
- Maximise community benefits by a more equitable, transparent and structured approach and benefit-sharing.
- Include the whole project lifecycle (including decommissioning) in the legislation and to ensure the productive capacity of the land is maintained and is returned to its previous use.
- Ensure the legislation maintenance and implementation is self-funding and well resourced.
- Complement existing effective legislation.

Livestock SA strongly encourages early and ongoing consultation with landowners/lessees, and the establishment of robust financial assurance mechanisms to ensure all the requirements and obligations of new licence holders are met.

- Effective land access and compensation arrangements with landowners/lessees, and fair and enforceable dispute resolution processes will be critical. Producers are almost always at a significant resourcing and knowledge disadvantage during these negotiations, which leads to sub-optimal arrangements and outcomes that persist for many years.
- In comparison to the traditional industries, the renewable energy sector is still relatively nascent and has a mixed track record on fulfilling and honouring its commitments – illegal phoenix activity has been commonplace in the past, so there must be more checks and balances and greater regulatory intervention to prevent this occurring.

Livestock SA also requests that a complete plain English information pack that details how the new whole of project lifecycle legislation will impact livestock production businesses on both Crown and freehold land be available to complement the draft Bill when it is release for comment in March-April 2023.

We thank the department for the opportunity to comment on the Issues Paper and welcome continued engagement throughout this process. Please contact the Livestock SA office on (08) 8297 2299 or via admin@livestocksa.org.au if you would like to discuss this submission further.

Yours sincerely

Travis Tobin
Chief Executive Officer