Before the 2022 election, the government committed to a set of practical initiatives to support landholders across South Australia to care for their land sustainably.

One of those initiatives is to confirm that pastoral leases can – in accordance with the Pastoral Land Management and Conservation Act 1989 (the Pastoral Act) – be used for carbon farming and conservation.

The Pastoral Act covers 323 leases making up 219 stations over an area of 40 million hectares, roughly 40% of South Australia. Pastoral lessees make a huge contribution to the sustainable management of land in South Australia.

21 pastoral leases are already wholly used – with the Pastoral Board’s approval – for conservation, and five pastoral leases are used for carbon farming. However legal uncertainty about the Board’s ability to approve non-pastoral uses has arisen in recent years.

The government will shortly table a Bill to amend the Pastoral Act to confirm the Board’s ability to approve a range of uses of pastoral leases. This simply confirms the situation that has been in place ‘on the ground’ for over 30 years, enabling ongoing efforts by lessees, Aboriginal people and regional communities to manage pastoral lands in a variety of ways.

1. What changes are being proposed?

The government is delivering on its election commitment to confirm that pastoral leases can be used for carbon farming and conservation.

The Bill to amend the Pastoral Act will confirm the current ‘on ground’ status quo.

Specifically, it:

- amends the Objects of the Pastoral Act to confirm that pastoral leases can be used for conservation and carbon farming (as defined in the Act)
- preserves the role of the Pastoral Board in relation to the approval of non-pastoral uses of pastoral land (for some or all of a pastoral lease)
- formally recognises previous board decisions approving the use of some, or all, of a pastoral lease for non-pastoral uses
- clarifies that land assessments will take into account, for all leases, the purposes for which the land is being used
- clarifies the required qualifications of potential Board members nominated by the Conservation Council of SA.

The Pastoral Board’s powers in relation to the management of the rangelands will not change.

Current leases will not change. All leaseholders will still need to actively manage their leases and remain subject to Pastoral Act obligations, such as requirements to maintain fencing and watering points unless conditions are varied by the board.
2. Why are these changes necessary?
21 pastoral leases are already wholly used – with the Pastoral Board’s approval – for conservation, and five pastoral leases are used for carbon farming.

Some legal uncertainty about the Board’s ability to approve non-pastoral uses has arisen in recent years because of an inconsistency between two sections of the Pastoral Act.

The proposed minor amendments to the Pastoral Act resolve this inconsistency and will remove any doubt as to the ability of the Board to make these decisions in accordance with the Act.

The Pastoral Board will retain, and continue to exercise, its powers to approve non-pastoral activities on pastoral leases.

3. I am a current leaseholder, how do these changes affect me?
Your current lease agreement won’t change. All lease holders will still need to actively manage their leases, and continue to be subject to the land assessment, stocking limits and rent obligations under the Pastoral Act.

All leaseholders also continue to be subject to other legislation such as the Landscape South Australia Act 2019 which regulates the management of water, and pest plants and animals.

4. What are the benefits of these changes?
These minor amendments to the Pastoral Act simply clarify that the Pastoral Board can continue to approve non-pastoral activities on pastoral leases.

This will continue to support the board’s management of pastoral land for a variety of purposes.

It also ensures lease holders will continue to have flexibility in relation to how they use their land and can diversify their activities, subject to the approval of the Pastoral Board.

These changes confirm that Significant Environmental Benefit (SEB) Offsets, and Heritage Agreements under the Native Vegetation Act 1991 can be implemented on pastoral leases. These tools provide lease holders with opportunities to receive funding for conservation activities on their lease.

5. What consultation has been undertaken?
These changes have been informed through consultation with a range of organisations who have a close interest in pastoral land management, including the Pastoral Board, Livestock SA, Primary Producers SA, the Conservation Council of SA, SA Native Title Service and First Nations of SA.

Further discussions have also been held with pastoralists, coordinated by Livestock SA, and several conservation organisations, coordinated by the Nature Conservation Society of SA. These contributions are acknowledged and appreciated.

6. How do these amendments differ to what the previous Government proposed?
The previous government wanted to amend the Pastoral Act to remove stocking limits, to create longer leases — with up to 100-year terms — and to stop requiring on-ground assessment of the condition of the land.

This government is not pursuing those proposals. Instead, this government proposes minor amendments to the Pastoral Act which simply confirm the validity of the ‘status quo’ across the rangelands.

The Pastoral Board’s powers in relation to the management of the rangelands will not change. Likewise, current leases will not change.
7. Will these changes affect the economic viability of pastoral businesses?

No. Pastoralists and conservationists have worked together side-by-side across the rangelands for more than 30 years and they will continue to do so.

The economic viability of the pastoral industry is and will remain an object of the Pastoral Act.

Supporting lease holders to manage their land flexibly – including for conservation and carbon farming – provides pastoralists with options for generating alternative revenue sources.

Leases used for conservation or carbon farming will continue to be regulated under the Pastoral Act, including requirements for land assessments, which will take into account the use of the land.

8. Will these changes impact Native Title rights or agreements?

No. The government recognises the importance of Aboriginal peoples’ spiritual, social, cultural and economic connections to Country.

The Pastoral Board will continue to work with lease holders and Aboriginal people to ensure that the use of pastoral leases is consistent with native title rights.

9. How will these changes be implemented?

The Pastoral Board will continue to exercise its power to approve non-pastoral activities on pastoral leases, in accordance with the updated Pastoral Act.

The Board will update its guidelines and approval process for change of use, following parliamentary approval. The guidelines will include consideration of any changes to lease conditions, and consideration of potential impacts on neighbours and on Native Title rights. The Board will consult stakeholders on these changes.

Where the Board has previously approved a non-pastoral use, these approvals will remain in effect. Any new request to change the use of a pastoral lease will be considered by the Board on a case-by-case basis, in accordance with the Act and the Board’s revised guidelines.

When the Board approves a change in use of lease, that change will remain in force unless the lessee seeks a further change.

The Bill provides for the Minister to adjust the definition of carbon farming activities from time to time, because carbon farming markets and methods continue to evolve. The Government will consult on any proposed changes to the definition.

10. How will carbon farming work under the new Bill?

At present, carbon farming projects need to be registered with the Australian Government’s Clean Energy Regulator. The applicant must also seek the Pastoral Board’s approval, consult Native Title holders where relevant, and seek the consent of the Minister as an Eligible Interest Holder under Australian Government legislation. This process will not change under the new Bill.

A new regulation may specify in more detail what kinds of carbon farming projects may be considered including how they are registered and what kinds of methodologies may be used. This will not affect projects that are already underway.

11. Will lease tenure affect carbon farming projects?

Provided the remaining pastoral lease term extends for at least 25 years, this doesn’t pose a barrier to carbon farming projects of 25 years, which is the term for all proposed new projects in South Australia’s pastoral zone that are registered with the Clean Energy Regulator.
12. How will SEB offsets and Heritage Agreements work on pastoral leases?

Significant environmental benefit (SEB) offsets and Heritage Agreements are recognised as valid in the proposed definition of conservation purposes. The Minister for Climate, Environment and Water approves these offsets or agreements under the *Native Vegetation Act 1991*. In giving approval, the Minister will also need to ensure they are consistent with the Pastoral Act and other legislation.

Offsets and agreements can be applied on all or part of a pastoral lease if the Board has approved use of that area for conservation provided the project is consistent with the conditions of the lease. The Board will not need to approve the offset or agreement itself.

13. What activities are covered in conservation purposes?

The definition of conservation purposes covers activities required to conserve and restore natural ecosystems in the rangelands, including biodiverse revegetation using species native to the area, erosion repair and feral animal control.

Some activities may require approval from the Board to vary existing lease conditions. This would include decommissioning of existing stock watering points, removal of internal stock fencing, and reducing the stock maximum to zero.

14. How will land condition assessments change?

The Bill will enable the Board to tailor its land condition assessments and other decisions to consider the use of the lease. Assessment of a lease approved for conservation purposes will not need to focus on its stock carrying capacity and degradation of watering points by stock grazing, but would consider other indications of condition and degradation.

The Board will continue to be responsible for determining appropriate assessment methodologies in line with the requirements of the Act.

15. Will the appointment process for the Pastoral Board be changed?

No. The Bill clarifies the expertise requirements for nominees submitted by the Conservation Council of SA. Other changes simply recognise historical changes in organisation names or Ministerial portfolio responsibilities.

16. How do these changes relate to the development of renewable energy on pastoral land?

These minor changes are not related to the government’s proposal to develop a Hydrogen and Renewable Energy Bill (HRE Bill).

Any changes that may be needed to the Pastoral Act resulting from a new HRE Bill, will be dealt with as consequential amendments as part of the HRE Bill process. The Department for Energy and Mining is currently consulting on a draft HRE Bill, and there is an opportunity to comment on consequential amendments to the Pastoral Act as part of that consultation.

Further information about the HRE Bill is available on the Department for Mining and Energy website.

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