

Hon. John Hill
Independent Reviewer of the Landscape Act
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Dear Mr Hill

Thank you for the opportunity to provide comment to the Independent Review of the *Landscape SA Act 2019* (the '**Landscapes Act**'). We welcome the opportunity to enhance the legislative framework governing South Australia's landscape management.

Primary Producers SA ('**PPSA**') is the peak industry body representing the interests of South Australian primary producers and is the South Australian member of the National Farmers Federation. Our members are the peak commodity organisations of South Australia. Current members include Grain Producers SA, Livestock SA, SA Dairyfarmers' Association, SA Forest Products Association, Horticulture Coalition of SA, and the Wine Grape Council of SA.

PPSA has a strong interest in the operations and effectiveness of the Landscapes Act and support the retention of stand-alone legislation concerning landscape management in South Australia. We believe the ability for the current Landscape programs to focus in assisting producers adopting adaptive, sustainable, and profitable future farming systems, is particularly relevant in a changing climate.

We have reviewed the Discussion Paper and our submission addresses each of the questions raised as discussed during our meeting on Wednesday, 1 November 2023.

If you, or the department have any queries regarding this submission, please feel free to contact me via email admin@ppsa.org.au

Thank you for your careful consideration of these matters.

Yours sincerely



Caroline Rhodes

Chief Executive Officer

PRIMARY PRODUCERS SA

Submission to the Independent Review of the *Landscape SA Act 2019*

CONTEXT

In the following document, PPSA has responded to the questions from the Discussion Paper for each of the sections and provided responses and insights for each.

In addition, where relevant, our submission highlights where we align to the feedback from Peak Bodies provided during the initial consultation phase, inserted as 'text boxes', with a note to:

- **SUPPORT**
- **CONDITIONAL SUPPORT** subject to further discussion
- **NOTED** to signify PPSA has no fixed position, or
- **NOT SUPPORT**

RESPONSES TO DISCUSSION PAPER QUESTIONS

FOCUS AREAS FOR FEEDBACK

Outcomes of the Reform

In general, do you believe the outcomes sought from the legislative reform process are operating effectively through the Landscape Act?

- PPSA supports the original policy intent to decentralize responsibility for decision-making.
- The reform has enabled greater autonomy of Regional Boards to respond to community needs, while still enabling a partnership approach with Government, in particular the Department of Environment and Water (DEW).
- Counter to that, the engagement of other agencies, in particular Primary Industries and Regions (PIRSA) has become more difficult where the new arrangements preclude direct engagement through Board representation.
- While providing the platform, the extent to which the reform has enabled 'whole of landscape' management is limited. While Regional Plans are universally pitched to address the gamut of economic, environment and social outcome sought, where regional programs (with exceptions) tend to remain to be project and specific issues based.

Objects and Principles of the Act

Do you think the Objects and principles of the Landscape Act have been adequately reflected through the legislation resulting in positive outcomes in use and management of the state's natural resources?

- PPSA generally supports the ecological sustainable development Objects and Principles of the Act which is to strike a balance economic, environmental, and social outcomes from resource management.
- It is the implementation of the Act where that balance is sometimes challenged, but nonetheless the Act provides for a healthy tension as to where priorities lie.

Administration: Roles and Responsibilities under the Act

Do you believe the current system of decentralised decision making and priority-setting by landscape Boards, which was established under the Landscape Act, is working effectively?

- PPSA understands this is working effectively but observes the blurring of responsibilities when it comes to the extent to which the Boards are truly at 'arms-length' from Government.
- Processes are in place to manage the engagement and administrative processes, but PPSA observes the need for diligent attention and resources to ensure a system that works effectively.

Do you think a comprehensive and transparent nomination process for board members prior to appointment by the Minister, is appropriate for landscape Boards rather than holding an election for a portion of the members?

- PPSA supports a process where Board membership appointment is strongly based upon skills, rather than elections. It is critical to maintain a balanced composition.
- PPSA believes it is important to ensure regional Boards demonstrate collective working knowledge of agricultural production to maintain the confidence of the primary production sector. It is important that consultation with peak bodies is undertaken prior to Ministerial appointment.
- PPSA’s position is that an election process is less likely to yield a skills-based body and that a rigorous application, assessment, and appointment process conducted by the Minister will deliver a preferred outcome.

Do you think the creation of Green Adelaide, under the Landscape Act, has been successful in achieving positive environmental outcomes in metropolitan Adelaide?

- PPSA is not in a position to make an assessment on outcomes for metro Adelaide by Green Adelaide but notes the largely positive coverage of initiatives in the media to connect the community with the natural environment.

Do you believe the current functions and priorities of Green Adelaide, as prescribed under the Act, are appropriate in achieving the best landscape management outcomes for metropolitan Adelaide?

- PPSA is not in a position to comment on the appropriateness of the functions and priorities of Green Adelaide but highlights the positive benefits of the distribution of Adelaide levies into the Landscape Priority Fund which can be/are applied to landscape scale projects in the regions is very positive approach.

Peak Body Preliminary Feedback

- Review Green Adelaide’s seven priorities to allow for more flexibility for the most effective integrated management of an urban environment. **NOTED**
- Explore pros and cons of aligning Green Adelaide with other regional landscape Boards to be a more independent board that makes provision for a General Manager, that can in turn choose its service providers and have the ability to expand or contract its workforce. **NOTED**
- Consider funding arrangements, for example review current tools within the Act for redistribution of funds to other Boards and explore options for the Act to provide for Boards to set up trust accounts for the purpose of seeking external funding support. **SUPPORTED**

Do you consider that the roles and responsibilities are appropriately assigned in the Landscape Act?

- PPSA understands that the roles and responsibility assigned by the Act are appropriate. We contend that improved communication and guidelines made available by the Minister or DEW will improve the governance model of decentralized decision-making.
- One area of contention is where the General Managers of the Regional Landscape Board are appointed by the Chief Executive of DEW. This policy does impact on the extent to which regional

Boards operate autonomously from DEW. PPSA suggests that this be reviewed in line with the original policy intent, that appointments be made on the recommendation of the board who should also have a role in setting the performance agreement of the General Manager.

- As previously submitted, PPSA suggests the Review consider how the Act could empower Regional Boards to have greater oversight into the size and scope of their workforce. Currently the General Manager is rightly the manager and hirer and firer of staff in the context of the Annual Business Plan that is endorsed by the Board. Given much of the financial resources of Boards is expended on staff rather than on-ground community programs and projects, PPSA suggest the Review investigate whether the Act include a step whereby Boards oversee the size and scope of the work force (beyond budgets for projects) in the Business Planning process.

Peak Body Preliminary Feedback

- Consider arrangements for GM appointment, performance, remuneration and acting process (look at LG Act as an example) **SUPPORTED**
- Consider the Act giving direction for General Manager to seek approval of their Board for the scope and size of the Board’s workforce engaged in delivery of regional plans. **SUPPORTED**

Do you consider that the roles and responsibilities are exercised responsibly by each relevant authority?

- PPSA understand that the roles and responsibilities are exercised responsibility.
- Notwithstanding that, PPSA understands that some Local Government remain resistant to the vehicle for collecting land-based levies.
- PPSA is not opposed to this process but poses that it be reviewed to explore alternatives which will foster council advocacy for programs of Landscape Boards.

Peak Body Preliminary Feedback

- Mandate a process for First Nations to be represented on Boards. **NOTED**
- Include the ability to formally appoint a deputy Chair. **SUPPORTED**
- Remove need for 21-day peak body consultation and consider changing way are consulted to simplify appointment process. **RETAIN** 21-day condition but **CONSIDER** changed process.
- Remove the specific qualifications outlined in the Act and allow each board to develop specific criteria for their own board, with approval by the Minister. **NOT SUPPORTED**

Planning Framework

Do you think the Act provides appropriate guidance and a clear framework to develop and implement a State Landscape Strategy that is valuable to statewide and local efforts?

- PPSA has previously submitted that the Act should provide greater clarity on the outcomes sought from the State Landscape Strategy and how it relates to Regional Landscape Plans.

- With hindsight, Regional Plans were developed and now in operation for 2 years, while a State Landscape Strategy is yet to be published. The Review should consider how to align the processes going forward and how the two processes should interact.

Peak Body Preliminary Feedback

- Clarify the outcomes sought from the State Landscape Strategy and how it relates to Regional Landscape Plans.

SUPPORTED

Do you believe there are opportunities to improve the connection between the State Landscape Strategy and the Landscape Priorities Fund?

- PPSA understands that the connection between the State Landscape Strategy and the Landscape Priorities Fund is appropriate, but as per the previous comment that the fund process has been implemented over the past years the review should consider process to ensure an enduring connection timing and priority wise.

Do you consider the planning process under the Act effective in providing adequate transparency to stakeholders about landscape board projects and funding?

- PPSA understands that the Act does provide for adequate transparency to stakeholders about landscape board projects and funding and the reform to streamline consultation process has been beneficial to a consultation weary community.
- PPSA observe that this efficiency raises the conundrum then of Boards being less engaging and transparent with their community and suggest that the Review consider setting out requirements for contemporary means of involving community in decision making.

Do you think the process for developing Water Allocation Plans leads to water resources being sustainably managed?

- Primary producers need confidence in the integrity of the framework that allocates water. Strong producer input, transparency, and use of robust science drives confidence to make business, social, and environmental investment decisions.
- PPSA appreciates the scientific, technical complexities and the need to account for the competing demands for water involved in water allocation planning. While the Act establishes good process for developing WAPs, the conundrum of adequate and appropriate consultation with water users remains a challenge.
- PPSA believes the ongoing collection of data and scientific analysis required to sustainably manage water resources should be funded directly and supported by DEW, with additional external scientific expertise coopted as appropriate in consultation with regional Boards.
- Our understanding is that Regional Boards have thorough processes guided by the Act and carry out this process with the resources at hand. The process allows for the scientific and technical complexities and the competing demands to be aired through a robust and transparent process, noting the challenges in balancing priorities and engaging informed and influential water users in the process.

- Strong engagement by all stakeholder groups, including primary producers, is key to the success and acceptance of any WAP and confidence in the allocation rationale and framework. We believe this process is best managed at a regional level.

To support this outcome, PPSA believes that:

- WAP Advisory Groups must have strong and informed primary producer representation.
 - WAP development must be transparent, and science based.
 - PPSA does not support the mandatory metering of rural water for stock (non-intensive) and domestic consumption.
 - WAPs must demonstrate the value of all water uses, including environmental water outcomes.
- Strong producer input, transparency, and use of robust science drives confidence to make business, social, and environmental investment decisions.

Peak Body Preliminary Feedback

Water Allocation Plans

- Explore options for preparing WAP's and whether there are any simpler processes. Consider if WAP's are best prepared by DEW or Boards. **NOTED**
- Consider better defining Management Zones identified in a water allocation plan – Act does not explicitly state what the interpretation is and Management Zone should be able to be used more broadly, from what the inference is. **NOTED**

Regional landscape plans

- Consider adding a requirement for landscape Boards (other than GA) to consider coastal and marine environments in order to establish a more integrated management approach from the top of catchments to the sea and along the whole coastline. **NOTED**

Levies and Funding Equity across regions

Do you think the system of setting levy amounts and levy collection, as specified under the Act, operates effectively?

- PPSA's experience is that setting levy amounts is largely an internal process of Regional Landscapes Boards, but that mandatory and voluntary organisations and individual have opportunity to scrutinise and comment.
- As an indication that payment of the levies is generally accepted, PPSA does not receive correspondence from our members in regard to them.
- As expressed above, PPSA acknowledges the reluctance of local government to be the levy raising body and while not opposed to this process, the review should revisit potential alternatives which will foster council advocacy for programs of Landscape Boards.

Do you believe there is adequate transparency about how levies are used on regional programs?

- PPSA understands that moneys raised in the regions are invested in programs in the regions, but have questions regarding the transparency, quantum, proportion and purpose of funds paid into DEW for administrative services and suggests the Review consider uncovering that data,
 - to understand the extent of being at arms length from Government, and
 - for transparency for stakeholders.

Do you believe alternative funding arrangements should be considered to ensure all landscape Boards share levy income more equitably?

- PPSA understands the arrangements are equitable and commensurate, particularly that the Act allows for the distribution of Funding for the Landscape Priority Fund.
- It is important to maintain a broad base of collection of levies used in funding of landscapes programs.

Peak Body Preliminary Feedback

- Clarify how the fund is managed or how it should be deployed and for clarity and transparency, recommend consideration of more legislative guidance, which may be by regulation or Ministerial Notice. **SUPPORTED**
- Consider how to better conduct landscape prioritisation, evaluation and reporting more accurately, effectively and efficiently. **NOTED**

Funds of the Landscape Act

Do you believe the system of statutory funds established under the Landscape Act are fit-for-purpose and administered as intended by the Act?

- PPSA understands the Funds are fit for purpose and administered as intended.
- PPSA acknowledges the value of Landscapes Boards being able to use levy funds as a leverage contribution to access additional support from Federally funded programs, such as the Future Drought Fund through the Drought Hub program, carbon farming initiatives, or other funding.

Do you think the Landscape Priorities Fund is operating effectively and being administered in a manner as intended by the Act?

- The Landscape Priorities Fund operates and is administered as intended, but PPSA suggest the Review consider an increase to the proportion of the Green Adelaide levy income, given the vast majority of the ‘landscape’ to be managed is in the less resourced regional areas that provides the food, water supplies and visual amenity for the urban population.

Peak Body Preliminary Feedback

Land based levies

- Consider requirements and options regarding collection of landscape levy by local councils. **CONDITIONAL SUPPORT**
- Consider levies being able to be reimbursed or waived. **NOT SUPPORTED**

Management and Protection of land condition

Do you think the Landscape Act adequately provides for the prevention and management of land degradation?

- PPSA observes the Regional Boards all have ‘sustainable agriculture’ programs and work with farmers and other landowners particularly, on land and soil related issues that not only address degradation issues but indeed land and soil condition improvements.

Management and Protection Water Resources

Do you consider there are opportunities to improve the operation and effectiveness of the water resources regulatory framework under the Landscape Act?

- All water is valuable, regardless of its use; be that for production, societal, environmental, or cultural purposes.
- South Australian producers recognise that the health of the environment is intrinsically linked to both water quality and physical access. Water quality must be maintained to ensure that is fit for purpose, and suitable for agricultural and regional community use.
- Primary producers need secure access to water as an essential resource to underpin sustainable and profitable primary production. That Regional Boards work closely in partnership with DEW on water resource management has ensured a consistent and rigorous approach.
- All water allocation frameworks must provide long term secure and affordable access to water for productive purposes, to foster strategic and strong investment in South Australian primary production, supporting vibrant communities, and maintaining a healthy environment.
- PPSA supports the Water Allocation Planning process that has set an example, for example the management of water resources under the Murray Darling Basin Plan. The levy raising process is also supported.
- PPSA notes the ongoing debate as to how forestry water use is ‘treated’ in WAP process and suggest the Review consider this and investigate how the Act could provide additional guidance to Boards when allocating water resources.
- PPSA **does not** support the mandatory metering of rural water for stock (non-intensive) and domestic consumption.
- Any changes to dam safety management schemes and enforcement provisions should only be implemented through a staged, risk-based approach to minimize potential regulatory burden and direct cost to landowners.
- South Australian primary producers need water supplies for livestock and rural communities.

PPSA believes that:

- Domestic water supply for critical human needs to regional communities and townships must be prioritised.
- Environmental water provisions should be balanced with consumptive purposes to

sustain livestock and rural communities.

- Planning frameworks must have regard for the sustainable capacity of water resources to support regional community and township, environmental, and productive use.

Peak Body Preliminary Feedback

Water licencing

- Consistency between forest water and taking water licences could be reviewed and consideration given to what a WAP may do versus what is specified in the Act (forest water licences don't have an entitlement under the Act). **SUPPORTED**
- Unbundling; in a groundwater system where the water is taken from matters. There is a need to know what well is attached to a water licence. **NOTED**
- Address the disconnect between water policies and water licencing **NOTED**
- Oppose stock and domestic wells requiring a permit. **SUPPORTED**
- Upon the expiry of registered security interests, enable the holder of the registered security interest only to extend a registered security interest (currently both the water licence holder and the financier holder of the registered interest need to authorise). **NOTED**
- Clarify tenants in common; limit the ability to place a security interest against part of a water access entitlement to tenant in common circumstances only. **NOTED**

Taking water from non-prescribed areas

- Explore additional options (fit for purpose water management) for regulating water take from non-prescribed areas. **NOT SUPPORTED**
- Enable the regulation and management of water take from either surface or groundwater resources, outside of prescribed groundwater resources. **NOT SUPPORTED**

Permits

- Where a development approval is given under the PDI Act and a water affecting activity permit would also be required, clarify that if that development hasn't been referred under the PDI Act to the relevant Landscape Board then a water affecting activity permit under the Landscapes SA Act is still required. **NOTED**

Dam Safety Management

- Opportunity to improve the regulation of farm dams by introducing a duty of proper maintenance, enabling policies and guidelines to assist enforcement.

CONDITIONALLY SUPPORTED

Levee bank management

- Improve the interaction of the PDI and LSA Acts regarding the approval process for siting, design, construction, and modification of levee banks to reduce duplication and inconsistencies.

SUPPORTED

Control of pest animals and weeds

Do you believe that the regulation of pest animals and weeds under the Landscape Act system is working effectively?

- PPSA understands that the relationship Boards have with PIRSA on the control of pests and weeds under the Act is delivering an adequate regulatory framework.
- PPSA believes that effective biosecurity arrangements are fundamental to the prosperity and sustainability of our \$17.3 billion primary production sector in South Australia¹. The strength of these arrangements underpins both domestic and international market access of agricultural commodities, and directly impacts on-farm productivity.
- PPSA notes the legislative framework governing South Australia’s biosecurity arrangements is currently under review, consistent with the government’s intention to modernise current laws under a new Biosecurity Act. This will introduce a general biosecurity duty that may necessitate future consideration of the role of regional Boards in working with landholders to manage pest animals and weeds under the current Act.

Compliance and Enforcement Provisions

Do you think the compliance and enforcement mechanisms in the Landscape Act are fit-for-purpose?

- PPSA observes that while land, water and pest and weeds management arrangements are fit for purpose and that the Act gives appropriate powers to regulate activities where outlying degradation issues occur. However, it is apparent that (some) Boards may not adopt an approach that follows a process of awareness raising, education, direct technical intervention through to compliance and enforcement, to intervene effectively and efficiently.
- PPSA suggests the Review to consider the Act provide guidance beyond the statements in the ‘Objects of the Act that “encourages voluntary compliance”, to set out a process of intervention prior to the more punitive regulatory instruments.

Peak Body Preliminary Feedback

Powers of authorised officers:

Consider the ability to issue warnings

NOTED

Orders issued by landscape Boards.

- Consider streamlining the appeals process around the requirement to implement action plans, and use the requirement to implement an action plan (via s193 Action Orders) **NOTED**
- Include a provision to register Action Orders on Certificates of Titles **NOTED**

Compliance process for Water Affecting Activities: Consider interim steps for Water Affecting Activities before matter is referred to compliance. **NOTED**

ENDS.