

***South Australian Multiple Land Use
Framework***

***‘Submission Recommendations and
Response to Comments’ Report***

12 September 2016



This page has been intentionally left blank



Contents

1	Executive summary.....	5
2	Introduction	5
3	Comments on a <i>South Australian Multiple Land Use Framework</i>.....	7
3.1	Our vision	9
3.2	Desired outcome.....	10
3.3	Guiding principles	12
3.3.1	General comments and recommendations	12
3.3.2	Accountability	13
3.3.3	Best use of assets	14
3.3.4	Co-existence	15
3.3.5	Efficient processes	16
3.3.6	Evidence based	16
3.3.7	Equity	17
3.3.8	Shared commitment	17
3.4	Figure (collaborative multiple land use outcomes)	18
3.5	Key engagement mechanisms	18
3.6	Glossary (definitions)	18
3.7	Case studies	19
4	Responses to general comment themes	20
4.1	Who are stakeholders?	20
4.2	Engagement and timing of engagement.....	21
4.3	Relationship of agriculture and mining.....	22
4.4	Multiple land use in parks and reserves	23
4.5	Environmental concerns	25
4.6	Aboriginal community representative’s concerns	27
4.7	Renewables and nuclear.....	28
4.7.1	Renewables	28
4.7.2	Nuclear and the nuclear fuel cycle.....	29
4.7.3	National Radioactive Waste Management Facility	30

4.8	Land ownership, farmers and farming.....	30
4.9	Climate change, protecting clean green image and growing food for the world	30
4.10	Legislation and agricultural protection	32
4.11	Compensation	33
4.12	Concerns about mental health	33
4.13	Concerns about buffer zones and impacts to existing land use	34
4.14	Questioning the science and independence of committees	35
4.15	Perceived conflict of interest	36
4.16	South East concerns.....	37
5	Next steps	38

1 Executive summary

This report (*'Submission Recommendations and Response to Comments' Report*) summarises recommendations from submissions regarding proposed changes to the draft *South Australian Multiple Land Use Framework* (draft Framework); the report also provides responses to non-South East matters.

An additional report (the *'Response to South East Submissions' Report*) has also been prepared (available from yoursay.sa.gov.au/decisions/yoursay-engagements-south-australia-s-multiple-land-use-framework/outcome), which provides responses to the key questions and concerns raised by 12 submissions regarding fracture stimulation operations.

Once the Reference Group has completed the integration of submission comments into an amended draft Framework, Cabinet will be asked to consider and endorse the Framework. Should Cabinet approve the amended draft Framework, it will be made publically available on the yourSAy website and will be linked on all relevant government websites. Copies of the draft Framework will be forwarded to all stakeholders and regulators will be provided additional copies for their customer service counters.

Decision makers and stakeholders will be encouraged to consider the guiding principles and key engagement mechanisms for land use and land use change projects.

2 Introduction

The concept of multiple and sequential land use is well established in parts of South Australia. South Australia is a pioneer of multiple and sequential land use outcomes across a variety of land uses, including our multiple use regional reserves and marine park systems and success in opening the Woomera Prohibited Area. For many of these differing land uses, access to land is critical to South Australia's long-term sustainability and international competitiveness.

The draft Framework is the culmination of targeted consultation with key State Government land use regulators on the National Multiple Land Use Framework. However, the State Government recognised the benefit of pursuing a state-wide multiple land use framework through a whole of government process¹. In March 2015, Cabinet approved a whole of government approach and a cross-agency Reference Group consisting of 13 State Government agencies² was formed.

¹ *Whole of government approach – where government agencies work across portfolio boundaries to achieve a shared goal and an integrated government response to particular issues.*

² *Attorney General's Department, Defence SA, Department of Environment, Water and Natural Resources, Department of Planning, Transport and Infrastructure, Department of the Premier and Cabinet, Department of Primary Industries and Regions, Department of State Development (Aboriginal Affairs and Reconciliation), Department of State Development (Minerals and Petroleum), Department of Treasury and Finance, Environment Protection Authority (SA), Renewal SA, South Australian Tourism Commission and SA Water.*

Between April and October 2015, the Reference Group developed the draft Framework. Cabinet approval was then sought to engage with stakeholders about the draft Framework between 12 November and 18 December 2015³.

The Reference Group identified 214 stakeholder groups and the draft Framework was forwarded to a total of 390 individuals. Stakeholders groups included:

- Aboriginal community groups and organisations
- Community and environmental groups and organisations
- Government agencies and councils (local, state and Commonwealth)
- Members of Parliament
- Business and industry groups
- Agricultural peak bodies and groups
- Regional development authorities
- Emergency Services.

In total, 58 submissions were received either through the yourSAy website⁴ or by mail or email. 29 submissions supported the draft Framework and 20 submissions opposed the draft Framework. Nine submissions were also received that discussed specific topics but they were unclear whether they supported or opposed the draft Framework.

Following the draft Framework's initial public consultation, a 'What we heard' Report was prepared and was published on the yourSAy website on 8 April 2016 (yoursay.sa.gov.au/decisions/yoursay-engagements-south-australia-s-multiple-land-use-framework/outcome). The 'What we heard' Report analysed the submissions, identified common themes and provided a selection of comments on each theme from submissions received; however, it did not address any of the questions or comments provided in submissions.

The 'Response to South East Submissions' Report provides responses to the key questions and concerns raised by 12 submissions regarding fracture stimulation operations and is available from yoursay.sa.gov.au/decisions/yoursay-engagements-south-australia-s-multiple-land-use-framework/outcome.

This report ('Submission Recommendations and Response to Comments' Report) summarises recommendations from submissions regarding proposed changes to the draft Framework; the report also provides responses to non-South East matters. Where possible, responses to specific

³ Note - 11 individuals/organisations sought and were offered time extensions to lodge their submissions in the New Year.

⁴ The discussion page on the yourSAy web page received a total of 35 comments and responses from 13 contributors (including the SA Multiple Land Use Framework team).

recommendations on the draft Framework have been included in sections 3 – 3.7 of the report (the Reference Group is still considering submission recommendations for inclusion in an amended draft Framework).

Responses relating to other comments and questions have been divided into various themes and are outlined in sections 4.1 – 4.16 of this report. The recommendations from the engagement process will assist in informing changes to this important body of work.

3 Comments on a *South Australian Multiple Land Use Framework*

Of the 58 submissions received, 33 submissions recommended changes to the Framework. Comments were diverse and covered a range of topics. General comments and questions on the draft Framework are discussed below, while specific comments on the vision, desired outcomes, guiding principles, figure, key engagement mechanisms, glossary and case studies can be found in section 3.1 – 3.7 of this report.

The purpose of the Framework is to minimise land use conflict and provide greater certainty for farmers, landholders, industry (which includes mining and petroleum companies), communities, environmental groups, traditional owners, including Aboriginal landholding bodies, native title holders and claimants, other Aboriginal organisations and regulators for the benefit of all South Australians. The draft Framework also seeks to increase transparency and consistency in decision-making to encourage consideration of multiple and sequential land use and enable more effective and targeted engagement with communities on land use change.

The draft Framework is additional to the State Government's new *Planning, Development and Infrastructure Act 2016 Community Engagement Charter*⁵ and its *Better Together: Principles of Engagement*⁶. The draft Framework is not intended to duplicate engagement requirements. As such,

⁵ The Planning, Development and Infrastructure Act 2016 *Community Engagement Charter* is an instrument, which will be prepared to ensure appropriate community engagement occurs during the preparation and amendment of statutory instruments under that Act. Planning Instruments include State Planning Policies, Regional Plans, the Planning and Design Code and Design Standards. Instruments can be prepared by the Minister for Planning, State Planning Commission or a Joint Planning Board. Amendments to Instruments can be undertaken by the Minister or by a range of other designated entities with the approval of the Minister. The Charter will not apply to development assessment processes, where consultation requirements are set out in the Act and Regulations.

⁶ Better Together: Principles of Engagement enables Government to make better decisions by bringing the voices of citizens and stakeholders into the issues that are relevant to them. Established in 2013, Better Together is centred on six engagement principles to provide a consistent approach across government and to guide best practice in engagement (1. We know why we are engaging; 2. We know who to engage; 3. We know the history; 4. We start together; 5. We are genuine; 6. We are relevant and engaging). The draft Framework is consistent with the key engagement principles of Better Together but the draft Framework goes further with the inclusion of guiding principles and key engagement mechanisms to enable more effective and targeted engagement with communities on land use change.

the draft Framework is not required for land use change projects/proposals that are assessed under the *Planning, Development and Infrastructure Act 2016* as the Community Engagement Charter will apply in those cases.

The draft Framework will not and cannot replace statutory engagement processes. Rather, it is a guide and commitment by the State Government to work towards best-practice engagement for land use and land use change projects. The draft Framework will not alter any legislation or planning documents nor will it alter existing land rights. The Framework will not enable mining companies greater ease of access to farming land nor will it influence the way in which rights and obligations related to land tenure are imposed on other users; existing legislation governs these matters.

The Reference Group was formed to consider the range of land use perspectives and land use change scenarios and propose a vision, desired outcomes, guiding principles and key engagement mechanisms with *all land uses* and potential conflicts in mind. The Reference Group recognises that there have been disputes between different industries, particularly farmers and miners in South Australia in recent years regarding land use and land use change. There is a need for diversified rural and regional economies but successful outcomes can only be achieved through collaboration and shared commitment.

The Reference Group is grateful for the valuable stakeholder submission contributions. Based on submissions received, the Reference Group acknowledges that amendments to the document are required to improve the document and will ensure that the Framework:

- recognises all landowners (including farmers) and describes the economic, social and environmental benefits of key landowner groups (including farmers) and communities to the SA economy and the importance of the state's natural assets in underpinning our long-term prosperity
- better acknowledges that not all land uses can be accommodated, and that after full consideration of all factors, single land use may be appropriate in some cases
- incorporates additional or amended definitions
- applies leading practice principles (e.g. engagement and decision-making processes)
- identifies that the term 'stakeholder' is anyone affected by land use
- considers the regional natural resources management plans to ensure consistency with these plans
- excludes aquifers
- distinguishes itself from other frameworks and policies relating to land use change
- demonstrates how it will be used and where it will sit within the system (ensuring that it does not complicate or conflict with the planning system) and considers the interaction with the Community Engagement Charter to be delivered by the Government as part of the *Planning, Development & Infrastructure Act 2016*
- explains the advantages of the draft Framework and how its existence would be of additional benefit to the mechanisms that are already in existence

- provides more detail as to how the draft Framework will operate in practice, particularly in relation to statutory public consultation processes, current legislative requirements and its relationship with current planning processes under the *Planning, Development and Infrastructure Act 2016*.

The Reference Group will also consider the efficacy of the following:

- incorporating conflict resolution or arbitration processes (or acknowledgement of the existence of such processes so all parties are aware of their options from the outset of negotiations on land use change)
- explaining how the goal of ecologically sustainable development will be achieved via state, regional and local policies and planning decisions
- incorporating the Precautionary Principle
- undertaking independent baseline studies of the environmental qualities of catchments / landscapes to inform the draft Framework
- explaining how potential cumulative impacts of development will be addressed over time
- explaining how the draft Framework will contribute to improving key indicators for the next State of the Environment Report.

3.1 Our vision

11 submissions provided comments on 'Our vision'.

Further to recommendations outlined in section 3 of this report, submissions recommended the following amendments to 'Our vision':

- include the need to balance the needs of the economy with the long-term management of our natural resources
- include a principle on inter-generational equity to ensure that the present generation maintains the health, diversity and productivity of the environment or is enhanced for the benefit of future generations
- landowners' rights to be addressed and acknowledgement of the wealth generated for the state by all sectors (including the farming sector)
- acknowledge that the term stakeholder is anyone affected by land use.

One submission contended the reference to '*the interests of multiple land users are recognised and genuinely considered with existing legislative making processes*' is inappropriate because existing legislative making processes are flawed, benefiting short-term economic projects (e.g. mining) over long term sustainable farming and conservation; and as such the draft Framework has been developed to inform people of land use change rather than allowing a genuine engagement process where stakeholders can influence the decision-making process.

As outlined in section 3 above, the draft Framework will not alter any legislation or replace statutory engagement processes (please also refer to sections 4.3 – 4.4 and 4.8 – 4.10 of this report for further

information). Changes to Parliamentary or legislative processes or legislation are outside the scope of the draft Framework.

The intent of the draft Framework is to allow a genuine engagement process where stakeholders can participate in the decision-making process and is consistent with the message the Premier has made clear in the Reforming Democracy: Deciding, Designing and Delivering Together Policy⁷ (yoursay.sa.gov.au/reforming-democracy) where he stated that ‘...people should have more opportunity to be involved in the decisions that affect their lives. It is a fundamental part of our democracy – how we ensure fairness and how we allow opportunity and diversity to flourish..... The old days of ‘announce and defend’ decision-making by Government are over. A new era of genuinely engaging people – of “debate and decide” – has arrived.’

There was also the suggestion that in order for decision-making processes to be ‘transparent and allow for equitable consideration of land use proposals’, government regulations and expectations need to be stricter, regulators need to be independent and independent baseline studies must be obtained in order to get detailed and ‘proper data’ which can be publicly scrutinised and assessed. Some of these suggestions relate to matters outside the scope of the draft Framework (i.e. drafting of legislation, regulations or formulation of policy relating to specific land use matters), while the other matters are addressed in sections 4.14 and 4.15 of this report.

3.2 Desired outcome

Nine submissions provided comments on the ‘Desired outcome’. Comments suggested that the “desired outcome” should be to maximise benefits to South Australians:

- in a manner that ensures our natural resources can be sustained into the future
- by using the Precautionary Principle, the Principle of Intergenerational Equity and the Conservation of Biological Diversity and Ecological Integrity to collaboratively plan and develop land use outcomes so we care for the environment for long term sustainability to ensure food and water security for the community; and that land use is positive and sustainable to create healthy communities for present and future generations.

Three submissions also suggested that the term ‘maximise the benefits for all South Australians’ is a good idea ‘if you recognise that food and water security (the basics of life) comes above any other activity’; questioned how the draft Framework ‘will deliver better outcomes for local communities forced

⁷ The Reforming Democracy: Deciding, Designing and Delivering Together Policy was released by the Premier in August 2015. The policy commits the State Government to explore and trial ways that build on the start it has made in democratic reform. A key initiative will be four ‘deliberative democracy projects’ where non-government organisations or business will work with the Government and the community to consider different policy issues. Additional projects will include a focus on the use of digital technologies and explore the application of crowd sourcing, collaborative working and resource sharing, and design thinking approaches to areas of government activity.

to live in close proximity to a large, polluting mine site and for the many landowners whose farms would either be lost, or would become unviable’; and that the ‘big dollar’ will always be considered ‘in the best interest of SA and its people’.

These comments relate to mining activities in South Australia. Sections 4.10 and 4.11 of this report address land access and compensation matters.

The South Australian Warden’s Court recently succinctly summarised the delicate balance between land uses in South Australia in the case of *Borthwick & Ors v Australian Graphite P/L* [2015]⁸:

‘The community has an interest in encouraging both agriculture and mining. The well-being of our agricultural and pastoral lands, and clean water resources, are fundamental to life and of great economic importance to the state.....’

‘If we pause to look at the things we depend upon in our daily lives, once we are fed and watered we can see that most of them came from a mine or an oil or gas well. Look around the room you are in and identify everything that had its source in a mine or an oil or gas well. We rely on mining for our buildings, consumer goods, transport and energy needs. If we want renewable energy sources the silicon, glass, aluminium and wires in solar panels and the material to construct electricity generating windmills all come from mines. Lithium-ion batteries for energy storage often use a graphite electrode. Farmers rely on fuel, fertiliser, chemicals and machinery which all have their origin in mines or oil and gas wells.....’

‘We must live sustainably, that is we should leave our environment in no worse and preferably in better condition for future generations. Earlier generations of both farmers, pastoralists and miners have sometimes done great environmental damage and sometimes still do. We are learning from those mistakes and making sure that both mining and farming are regulated to ensure that the environment is respected. Both mining and farming have risks and benefits. Miners have an obligation to earn a social licence to manage their potentially destructive activities in a sustainable way. The regulator has the primary role in managing the risks.....’

The State Government has the responsibility to encourage as many compatible industries as possible to thrive for the benefit of all South Australians and this is made clear in the Premier’s vision for South Australia. **The State Government does not intend to choose one industry over another.** Finding the balance between multiple legislative schemes is crucial and regulators will continue to work with the community, farmers, landholders and all relevant stakeholders to ensure that statutory obligations are met, stakeholders are appropriately engaged and social, environment and economic matters are adequately considered.

⁸ *Borthwick & ORS v Australian Graphite P/L* [2015] SAWC 1 (8 September 2015), www.austlii.edu.au/au/cases/sa/SAWC/2015/1.html

3.3 Guiding principles

22 submissions recommended either amending existing guiding principles or incorporating additional guiding principles into the draft Framework.

General comments about the guiding principles, including recommendations for new guiding principles are outlined in section 3.3.1 below. Recommendations for amending existing guiding principles are discussed in sections 3.3.2 – 3.3.8 of this report.

The Reference Group will consider all comments and liaise with stakeholders who provided recommended changes or additions to the guiding principles if further clarification is required.

3.3.1 General comments and recommendations

The following items were recommended to be incorporated into the guiding principles section of the draft Framework:

- incorporate 'land protection' when discussing 'good engagement on land use and land use change in South Australia'
- incorporate a stronger focus on development occurring in a way that protects the ecological and cultural values of our landscapes
- incorporate the Premier's introduction (*'The smart and environmentally sustainable use of land is vital to our state's long term-prosperity'*) into a guiding principle
- consider further emphasis on environmental and social considerations
- consider amending the (currently) general and broad principles to consider more specific land use change challenges in order to improve the efficacy of the draft Framework
- provide further emphasis that not all land in the state can be subject to multiple use decisions (e.g. in agricultural areas or areas with unique species assemblages, conservation significance, primary production or heritage value)
- provide further detail on how determinations of how single land use will occur and therefore reassurance that agriculture's current land access rights will be protected
- ensure that the removal of red-tape in the planning process does not reduce the rights of the land owner (a fundamental consideration in the case of farming land must be the current land use)
- consider the needs of both current and future South Australians with regards to land use change with permanent and irreversible impacts
- ensure a 'whole of landscape approach' is considered and the cumulative impacts of that change are assessed or modelled, and the consequences defined
- include 'Ecologically Sustainable Development' as a guiding principle; to better align with best practice principles
- incorporate the following three additional guiding principles into the draft Framework:

- Environmental Sustainability: recognise that the natural environment provides the basis for all sustainable land use in South Australia and needs to be considered as a prime factor in assessing multiple land use decisions
- Reporting and Transparency: all data and reports used in the decision making process will be available to the public and the decision will be explained in a detailed public report at the conclusion of the process
- Conflict of Interest: no member of the decision making committee will have a pecuniary interest in any aspect of the land uses involved. Any conflict of interest must be acknowledged and that person excluded from decision making meetings.

One submission also questioned the requirements for government agencies to comply with the guiding principles and whether a monitoring and compliance regime would be established for the draft Framework. There is no intention for a formal monitoring or compliance regime for the Framework. As discussed in section 3 of this report, the draft Framework is a guide (and commitment by the State Government) for best-practice engagement land use and land use change projects that can be considered alongside existing and future engagement processes and legislative regime.

The draft Framework is consistent with State Government's *Better Together: principles of engagement* (yoursay.sa.gov.au/better-together) and the Reforming Democracy: Deciding, Designing and Delivering Together Policy (yoursay.sa.gov.au/reforming-democracy), both of which describe the State Government's best practice commitments and unlike legislation, also do not have a compliance component.

3.3.2 Accountability

The following items were recommended to be incorporated into the 'Accountability' guiding principle:

- consideration of land ownership, not just land as a commodity owned by the community
- the right for landowners who own the land to say 'no'
- the power of veto and the right to say 'no' is held by First Nations
- the adoption of the minimum required international standards of *free prior and informed consent* should be observed by the state in any decision-making processes with First Nations people
- all decisions to be guided by the following considerations and principles: the Precautionary Principle, the principle of Intergenerational Equity and the Conservation of biological diversity and ecological integrity
- expansion of the principle to include clear and concise information on the social, cultural, economic and environmental changes that will occur as a result of the land use change; and
- interface buffers to mitigate against impacts to or from adjoining uses.

Two submissions also questioned whether accountability can be maintained despite red-tape reduction and whether accountability can be considered when it was stated the *Environmental Protection Act 1993* doesn't regulate the mining industry during the exploration phase.

The Reference Group acknowledges the importance of ensuring that accountability is not compromised and will consider making appropriate amendments to the draft Framework to reflect that.

With regards to industry regulation, the South Australian Environment Protection Authority (EPA) and the Department of State Development (DSD) have entered into a Memorandum of Understanding (MoU) in order to develop and comply with Administrative Arrangements to achieve consistent and efficient environmental regulation of mineral and petroleum resources under the Acts for which they are responsible, especially when the obligations and responsibilities of the parties under the Acts overlap. The MoUs can be viewed at www.minerals.statedevelopment.sa.gov.au/mining and www.petroleum.statedevelopment.sa.gov.au/legislation_and_compliance/petroleum_and_geothermal_energy_act_and_Regulations.

3.3.3 *Best use of assets*

The following amendments were recommended for the 'Best use of assets' guiding principle:

- provide further clarification about how competing land uses will be evaluated in terms of their benefit
- introduce an independent component into the assessment of competing land use interests and the determination of "best use of assets". This could take the form of an expert tribunal in more complex cases or an independent and respected person from outside of government or business to take part in the process.

One submission questioned the point of this guiding principle and whether its aim was to provide the '*maximum benefit for the land user or just maximise the benefit*'. The State Government has many responsibilities including the sustainable management of our natural resources, ensuring premium food and wine is grown and exported to the world and reducing our greenhouse gas emissions to assist with combating climate change. The State Government also has responsibilities (among other things) for the encouragement of growth and innovation in our state, building infrastructure and attracting a wide range of economic opportunities and jobs to the state and the regions.

All of these activities, when supported by a strong regulatory framework, can deliver real benefits for all South Australians shared across current and future generations in a way that sustains and enhances our state's unique environment and liveability, while protecting our clean green image.

The draft Framework recognises that not all land uses can be accommodated when determining multiple and sequential land use outcomes (refer to the 'Equity' guiding principle on page 6 of the draft Framework). The Reference Group has made a commitment that it will better acknowledge that not all land uses can be accommodated when determining multiple and sequential land use outcomes, and that after full consideration of all factors, single land use may be appropriate in some cases. Sanctuary zones in marine parks, wilderness protection areas, singly proclaimed parks⁹ and the Arkaroola Protection Area are all examples of where the State Government has considered the benefits of the proposal and determined that these areas should be set aside for single use only.

3.3.4 Co-existence

The following items were recommended to be incorporated into the 'Co-existence' guiding principle:

- consideration of far stricter rehabilitation requirements on agricultural lands post development
- equal weighting is given to all legitimate land uses (i.e. to improve the recognition, acknowledgement and respect of other interests and other interested land users)
- interface buffers to mitigate against impacts to or from adjoining uses.

A number of individuals and organisations also had diverse views in their submissions on the term 'co-existence' with regards to mining and agriculture, multiple land use in parks and reserves, legislation and matters specific to the South East. These matters are summarised below and addressed more completely in sections 4.3-4 and 4.10 of this report and in the separate '*Response to South East Submissions*' Report.

South Australia has an abundance of economic, social and environmental resources that can support the coexistence of various land uses in a sustainable and profitable manner. The State Government undertakes a consultative and collaborative approach with key stakeholders within industry, community, state and Commonwealth governments to develop solutions and outcomes that benefit access to land for multiple land users.

The concept of multiple and sequential land use is well established in parts of South Australia and has occurred sustainably on private land set aside for conservation, research, tourism and mineral exploration, farming and pastoral land and in the state's parks and reserves (e.g. in regional reserves). With reference to comments relating to the South East, the Limestone Coast region in the South East of South Australia has a long history of gas exploration and production compatibly coexisting within strong agricultural operations. Indeed, more than 100 oil and gas

⁹ Conservation or national parks, which have been proclaimed for conservation use only and do not permit mineral or petroleum exploration or production

exploration wells have been drilled over the last 100 years in this region and outcomes have been safe and without significant, perceptible, associated, negative impacts on natural environments, enterprises or the health and safety of people.

The State Government recognises that people feel very strongly about their land and the homes and farming activities that may occur on it. It works closely, and will continue to work closely, with local communities to identify potential issues and ensure any project application adequately addresses the environment and social issues, meets or exceeds minimum legislative requirements, and that the risk of new activities of impacting existing enterprises is maintained as low as possible.

3.3.5 Efficient processes

The following items were recommended to be incorporated into the 'Efficient processes' guiding principle:

- a rigorous, scientifically valid risk assessment process is important, but note that risk is generally considered in a once-off, ad-hoc nature for each individual case of land use change, rather than considering cumulative risk across landscapes
- risk should be assessed as a function of both likelihood and consequence.

Other comments related to the following:

- *'Streamline processes to remove unnecessary red-tape and duplication'* is almost a motherhood statement as everybody would agree with those sentiments, but one person's red-tape is another person's accountability. Accountability must not be compromised
- *'Use risk-based approaches....'* is a phrase that lacks detail
- duplication is not required: however, much stronger laws are required to protect communities and freehold landowners so that the supposed equity, stake or ownership of other interested stakeholders does not override the right of farmers (note - the drafting of legislation, regulations or formulation of policy is outside the scope of the draft Framework).

3.3.6 Evidence based

The following items were recommended to be incorporated into the 'Evidence based' guiding principle:

- adherence to the Precautionary Principle where scientific information is lacking on the potential impacts of a particular land use
- the need for a strategic approach to risk-assessment that considers the cumulative risk of an individual proposal or a number of proposals over a larger geographical area.

3.3.7 Equity

The following items were recommended to be incorporated into the 'Equity' guiding principle:

- provide detail about how decisions will be made about competing land uses and sequential land use outcomes
- include a principle on inter-generational equity, which is the fundamental principle of ecological sustainable development
- include interface buffers to mitigate against impacts to or from adjoining uses.

Two submissions also suggested that:

- the term 'equity' relates to the level of ownership, whether physical or financial and that it should not be used to describe anyone who may think they have an interest or would like to have an interest
- the only way equity could be reached is if legislation were amended to ensure farming and conservation were on 'equal footing' with mining (note - the drafting of legislation, regulations or formulation of policy is outside the scope of the draft Framework).

Another submission questioned what is 'equitable consideration' and questioned whether the health and long standing viability of already present businesses are equal to one large business proposal.

For any land use proposal, the social, environmental and economic matters (which include the health and long standing viability of present businesses and enterprises) need to be adequately considered. The requirements for these assessments are outlined in the relevant legislation and regulations applicable to the proposal.

3.3.8 Shared commitment

The following item was recommended to be incorporated into the 'Shared commitment' guiding principle:

- incorporate the social conscience of the people in the region when considering land use decisions.

Three submissions also questioned how outside interests have the right to consider multiple and sequential land use options for land that is already owned and operated by farmers engaged in sustainable food production. One of the submissions also questioned where the rights and equity of farmers and landowners were in this 'shared commitment'. These matters are summarised below and addressed more completely in sections 3.3.4, 4.1 and 4.8 of this report.

The South Australian Government has many responsibilities including the sustainable management of our natural resources, ensuring premium food and wine is grown and exported

to the world and reducing our greenhouse gas emissions to assist with combating climate change. Mineral and energy resources do not transfer with the land, but are the property of the Crown and are managed by the State Government on behalf of all South Australians. Although it may not own the land, the State Government has an interest and a responsibility for managing the resources on behalf of the state.

The State Government acknowledges the importance of the agricultural industry to the state's economy as well as the importance of land ownership and working with farmers and other landowners to ensure that their rights are acknowledged under law. The Reference Group intends to make changes to the draft Framework to better acknowledge farmers, land ownership and the importance of farming.

3.4 Figure (collaborative multiple land use outcomes)

Two submissions provided recommendations to substantially change the diagram to focus on different aspects of land access, to incorporate additional stakeholder groups and to consider environment and ecology within the context of collaborative multiple land use outcomes. The Reference Group will consider these recommendations and make appropriate changes to the Figure.

3.5 Key engagement mechanisms

Eight submissions provided comments on the key engagement mechanisms. Many of the comments related to specific aspects of the guiding principles such as best use of assets, co-existence, efficient processes, evidence based, shared commitment (discussed in sections 3.3 – 3.3.8) and their relationship with the key engagement mechanisms.

Other comments discussed the importance of a rigorous, scientifically valid risk assessment process and using risk based approaches assessed through a function of likelihood and consequence and based on best available science, evidence and sustainable development principles. Additional key engagement mechanisms were also recommended to encourage consideration of shared benefits and the long-term plans for a property as well as flexibility of multiple land uses on the same property by all parties in order to maximise coexistence and minimise interruptions to existing enterprises. The Reference Group will consider these recommendations and make appropriate changes to the draft Framework.

3.6 Glossary (definitions)

Seven submissions suggested amending existing definitions in the draft Framework or to incorporate additional definitions.

Some of the recommended changes to existing definitions included defining 'key stakeholder' (refer to section 4.1 of this report) and 'legitimate land use', redefining 'land use and 'multiple land use' redefining 'land' to include 'airspace' to protect runway approach and air traffic control site lines and modifying 'sustainable' to reference preservation of land so it is not harmed for future generations.

Other submissions proposed incorporating definitions for ‘environment’, ‘ecology’ and ‘resilience’ into the draft Framework, while others questioned the roles and responsibilities of co-management boards and the incorporation of aquifers and coastal marine waters into the definition of ‘land’. The Reference Group will consider these recommendations and make appropriate changes.

3.7 Case studies

Seven submissions disagreed with some or all of the case studies provided, while seven submissions either supported the case studies or recommended that further information and web-based tools are provided to better demonstrate how these case studies have addressed the guiding principles and how the draft Framework will operate, particularly in cases where there is continued conflict with regards to multiple land use. The Reference Group will ensure that existing case studies are updated and new case studies included, which are more reflective of the guiding principles and that demonstrate to key stakeholder groups the relevance of the Framework.

The sections below address specific comments on the individual case studies provided in the draft Framework.

Woomera Prohibited Area Case Study

The Woomera Prohibited Area (WPA) is a globally unique military testing range. It covers 122,188 square kilometres in north-west South Australia, about 450 kilometres north north-west of Adelaide. It is the largest land-based testing range in the world.

Despite the being a ‘prohibited’ area, the WPA supports non-defence activities. Amendments made to the *Defence Act 1903* established a WPA co-existence framework, providing greater certainty and assurance to all non-Defence users around access the area to pursue non-Defence activities. The majority of the WPA is Crown land covered by pastoral leases and mining tenements. Under the co-existence framework, Defence remains the primary user of the WPA.

Non-Defence WPA users include Aboriginal traditional owners, opal miners, mineral resource and energy companies, farmers, researchers and tourists. The Stuart Highway and Adelaide to Darwin rail line also run through the area. The WPA is divided into three zones, each offering different levels of access or time-share to non-Defence users. Although they may be revoked from time to time, standing permissions allowing continuous access to the:

- Tarcoola—Darwin railway
- Stuart Highway
- Lake Cadibarrawirracanna Road (Public Access Route)
- Olympic Dam Highway (B97)
- William Creek Road
- Woomera Village.

Further information on the WPA may be found at: www.defence.gov.au/woomera/about.htm.

Spencer Gulf Case Study

The Spencer Gulf is one of the most important economic development areas in South Australia. The State Government does not intend to amend legislation to exclude any existing industry or activity from the Gulf. The Spencer Gulf is the currently the subject of a major initiative, known as the Spencer Gulf Ecosystem and Development Initiative'. This Initiative, led by the University of Adelaide's Environment Institute to help facilitate change and maintain the integrity of the Gulf, is a multi-year program aimed at delivering:

- clearer approval pathways with potential to reduce costs and time delays thus greatly assisting economic development
- information, data, tools, capabilities and networks to assist in approval pathways
- community support and public comments more likely to be based on evidence
- a thriving Gulf region, where progressive developments occur, community opportunity is optimised and the unique ecosystem is protected and enhanced - specifically through effective consideration of cumulative, chronic and long term environmental stresses.

This is a great example of the principles of the draft Framework in action. Further information on the initiative can be found at the following web link www.adelaide.edu.au/environment/water/spencer-gulf/.

Gawler Ranges Case Study

There are several mineral exploration tenements over the Gawler Ranges National Park. Some exploration has occurred in the past, however there are no operational mines in the park. For further information on protected areas, please refer to section 4.4 of this report.

Wind Farm Case Study

The Wind Farm case study has been removed from the Framework.

4 Responses to general comment themes

Submissions raised a number of questions and comments over a diverse range of topics and themes. General themes have been identified in sections 4.1 – 4.16 of this report and the related questions/comments have been addressed throughout this report and the separate '*Response to South East Submissions*' Report.

4.1 Who are stakeholders?

Eight submissions were of the opinion that the definition of stakeholders should be broadened to incorporate anybody who may be affected by a development and land ownership, farmers and farming should also be acknowledged in the draft Framework.

The State Government acknowledges the importance of the agricultural industry to the state's economy as well as the importance of land ownership and working with farmers and other landowners to ensure that their rights are acknowledged. The Reference Group also intends to make changes to the draft Framework to better acknowledge farmers, land ownership and the importance of farming (see also sections 4.8 and 4.9 of this report).

Better Together: principles of engagement defines stakeholders as 'People who are organised under the banner of a defined group or organisation, often providing representation to a broader group, e.g. Business SA; SACOSS, a local environmental group or school.'

Page 4 of the draft Framework states that 'Engaging people affected by land use and land use change projects results in better decisions and in turn drives better outcomes for our state and for our communities.' This is further outlined on page 6 (Guiding Principle - 'Participation of all stakeholders') of the draft Framework where it states 'There is clarity about the role of all stakeholders in decision-making.' Although the intent of the draft Framework is that anyone affected by land use (whether directly or indirectly) is deemed to be a stakeholder, the Reference Group will include a definition for stakeholders consistent with *Better Together* in the Glossary.

For any project relating to land use or land use change, it will be the responsibility of regulators, project managers, consultants and contractors et al to ensure that:

- all relevant stakeholders are identified
- any legislative requirements for stakeholder engagement are adhered to
- the principles and engagement mechanisms of the draft Framework are also met.

4.2 Engagement and timing of engagement

Eight submissions noted that the timing and length of engagement on the draft Framework was not sufficient and one of these submissions also questioned whether farmers had been consulted on the National Multiple Land Use Framework.

In 2011, the Council of Australian Governments (COAG) formed the Land Access Working Group to undertake the development of a National Multiple Land Use Framework. Relevant state and territory regulators were consulted on the development of the National Framework.

In 2013, Rural Solutions SA undertook targeted consultations with key State Government land use regulators on the National Multiple Land Use and the current and future land use in South Australia.

All targeted agencies identified land use conflict in some way, for example:

- the mining industry and Defence – e.g. the WPA
- multiple land use in parks and reserves
- different land uses – e.g. mines/quarries & agriculture or mines/quarries & viticulture
- intra industry issues – e.g. piggeries and poultry farms and other primary producers

- irrigators versus non-irrigators
- new industries, such as wind farms, and their interaction with primary producers and the urban environment
- peri-urban zone – e.g. the interface between agriculture and the urban environment
- cultural tourism ventures developed without input from traditional owners.

In April 2013, the Rural Solutions SA report was finalised, which recommended the facilitation, development and implementation of a whole-of government approach to a multiple land use policy. Consultations identified support for further consideration of a state-wide multiple land use approach, noting the advantages of consistency and certainty of such an approach.

Once the Reference Group prepared the draft Framework, it was opened to engagement with all relevant stakeholders (including farmers, agricultural bodies, community and environmental groups, traditional owners, including Aboriginal landholding bodies, native title holders and claimants and other Aboriginal organisations) to allow all interested parties to provide input into the draft Framework.

It is acknowledged that engagement at the end of the year can be difficult for some parts of the agricultural industry. Finding a time in which all farmers, landowners, pastoralists, regulators, community groups, traditional owners and other interested stakeholders are available is very difficult. The Reference Group provided time extensions to all individuals and organisations who sought an extension (11 in total) and accepted all submissions that were received after 18 December 2015 (the last submission was received on 28 January 2016).

This report and the *'What we heard'* Report are the culmination of this engagement. The State Government is committed to continuing to work with stakeholders on land access matters.

4.3 Relationship of agriculture and mining

15 submissions provided a view on the co-existence of mining and agriculture, of which 13 were of the opinion that mining and agriculture could not co-exist.

Multiple land use occurs sustainably in South Australia and occurs on private land set aside for conservation, research, tourism, mineral exploration, farming and pastoral land and in the state's parks and reserves (e.g. in regional reserves and certain parks). An example of contemporaneous compatibility of multiple land use – including gas exploration, development and production is evidenced with the Katnook Gas Field and the Ladbroke Grove Gas Field in the South East.

Seismic, drilling, gas processing, production, and pipeline activities have been relatively frequent operations in the South East, and despite these activities being located in the highly valued Coonawarra wine growing region of the South East, the landowners concerned have been able to continue their various agricultural activities in compatible, contemporaneous coexistence with the petroleum activities.

In August 2014, Premier Weatherill lay out his vision for South Australia¹⁰:

South Australia is a place where people and business thrive. That is my vision for this great State.

The vision is about protecting the way of life that we value but opening the door to new ideas, new opportunities, new people and new businesses.

It is about us all taking bold actions and seizing opportunities. It's acknowledging that we must try new things, even though some of them might not go to plan. The vision emerged from our approach to government, at the heart of our economic development strategy, where there is a partnership between strong business, strong government and strong community. The economic priorities and actions that will underpin the vision reflect this partnership.

We are committed to working with business and the community to make sure that South Australia works to its strengths and prospers in the global economy.

The State Government has responsibilities to encourage as many industries as possible to thrive and this is made clear in the Premier's vision for South Australia. The State Government does not intend to choose one industry over another. Finding the balance between multiple Acts of Parliament is crucial and regulators will continue to work with the community, farmers, landholders and all relevant stakeholders to ensure that statutory obligations are met, stakeholders are appropriately engaged and social, environment and economic matters are adequately considered. The draft Framework will help facilitate better engagement on, and consideration of, land access matters.

4.4 Multiple land use in parks and reserves

Five submissions raised concerns about multiple use in parks and reserves, particularly in relation to the case study for the Gawler Ranges National Park.

The total area of protected land (i.e. land proclaimed or reserved for conservation purposes) within onshore South Australia is 21,061,601 hectares (over 21% of the state). The areas are administered by the Department of Environment, Water and Natural Resources (DEWNR) under the *National Parks and Wildlife Act 1972*, *Crown Land Management Act 2009* and *Wilderness Protection Act 1992*.

The *National Parks and Wildlife Act 1972* is designed for conservation purposes, but there are provisions for joint proclamations and regional reserves both of which allow access for mineral and petroleum exploration and development. Where access is excluded, this includes subsurface access as well as surface access.

¹⁰ http://economic.priorities.sa.gov.au/premiers_vision

Approximately 74% of onshore protected areas allow access for mineral and petroleum exploration and development under strict conditions and regulation. Less than 1% of the state is currently under mineral and petroleum production tenements. Mineral and petroleum production tenements in protected areas make up a total of 1.9% of the protected area network.

In 1987, the *National Parks and Wildlife Act 1972* was amended to create a regional reserve category. This allows for the development of multiple-use reserves with a conservation function. Any wildlife or the natural or historic features of the land can be conserved and at the same time, the natural resources of the land can be utilised. There are seven regional reserves proclaimed under the Act:

- Chowilla Regional Reserve - the dominant land uses of the reserve are pastoral production, conservation of natural and historic features and tourism/recreation
- Innamincka Regional Reserve - the dominant land uses of the reserve are conservation of wildlife, landscape and historic features, petroleum production, tourism and pastoral production
- Lake Frome Regional Reserve - the dominant land use of the reserve is biological and cultural conservation
- Nullarbor Regional Reserve - the dominant land uses of the reserve are conservation of the wildlife, landscape and historic features, mineral exploration and tourism
- Simpson Desert Regional Reserve - the dominant land uses of the reserve are biological conservation and recreational tourism
- Strzelecki Regional Reserve - the dominant land uses of the reserve are biological conservation, recreational tourism and petroleum exploration and production
- Yellabinna Regional Reserve - the dominant land uses of the reserve are conservation of wildlife, landscape and historic features, mineral exploration and tourism.

Mineral and petroleum exploration and production activities are possible only with approval of the Minister for Sustainability, Environment and Conservation as per the conditions of the park proclamation and in accordance with the management plan for the park.

A management plan is the most important source of clear management direction for a reserve. It is prepared under the *National Parks and Wildlife Act 1972* or the *Wilderness Protection Act 1992* to anticipate management directions over a 10 year period. As a strategic document, a management plan must identify the vision for the reserve and the objectives and strategies necessary to meet that vision. Plans contain concise background information that supports the objectives and strategies. For further information on management plans and the status of the Gawler Ranges National Park Management Plan, please refer to www.environment.sa.gov.au/managing-natural-resources/Park_management/Management_plans/Plans_in_preparation.

In 2009, 19 marine parks were declared in South Australian waters, covering more than 26,000km² of sea (approximately 43% of state marine waters). Just like terrestrial parks, they are greatly varied, stretching from the Great Australian Bight to the waters of the South East. The *Marine Parks Act 2007*

allows for the establishment of four marine park zones with different levels of protection and use. These include general managed use zones, habitat protection zones, sanctuary zones (6% of state waters) and restricted use zones (refer to *South Australia's Marine Parks Network, Explanatory Document* at www.environment.sa.gov.au/marineparks/About). The locations of these zones are outlined within each marine park management plan. While a multiple use policy (e.g. commercial and recreational fishing, research, recreation, tourism, shipping, exploration and development) is applicable to these marine parks, there are specific zones where mining and petroleum exploration and/or development is excluded.

4.5 Environmental concerns

Aside from comments relating to the South East (see section 4.16 of this report and the separate 'Response to South East Submissions' Report), an additional six submissions made general comments relating to the environment or raised specific concerns in relation to soil contamination at Clovelly Park and Mitchell Park, the proposed Hillside development on the Yorke Peninsula, exploration on the Eyre Peninsula and inappropriate irrigation practices.

Clovelly Park and Mitchell Park

One submission raised concerns about soil contamination at Clovelly Park and Mitchell Park and posed a number of questions in relation to the clean-up and monitoring. The EPA has established a dedicated website to provide further information to residents and the community about the site contamination at Clovelly Park and Mitchell Park. A community information sheet, frequently asked questions and copies of the completed environmental assessment report can be downloaded from www.epa.sa.gov.au/data_and_publications/site_contamination_monitoring/assessment_areas/clovelly_park_mitchell_park.

Rex Mineral's Hillside development

Three submissions discussed Rex Minerals' Hillside development on the Yorke Peninsula. Information on the chronology of the project application and assessment can be viewed at www.minerals.statedevelopment.sa.gov.au/mining/mines_and_quarries/hillside_copper_gold_and_iron_ore_project.

Frequently asked questions about the project are provided at www.minerals.statedevelopment.sa.gov.au/mining/mines_and_quarries/hillside_copper_gold_and_iron_ore_project/frequently_asked_questions. Further information on DSD's compliance and monitoring can be found at www.minerals.statedevelopment.sa.gov.au/exploration/exploration_reporting and www.petroleum.statedevelopment.sa.gov.au/legislation_and_compliance/compliance_and_monitoring.

Eyre Iron drillholes

Two submissions raised concerns about the Eyre Iron's drillholes for the Fusion Project in the Koppio Hills, Eyre Peninsula and the subsequent audit. Following concerns raised by the community about exploration drilling on Eyre Iron's tenements, in mid 2012 the Minister for Mineral Resources and Energy ordered an audit be conducted. The audit was undertaken between 6 and 10 August 2012, with inspections conducted on 136 drill sites (one third of Eyre Iron's total drilling program of 406 holes at the time). This was considered to be an adequate number of representative sites to identify non-compliance matters and to provide DSD with an understanding of how Eyre Iron conducted and managed its exploration programs. The audit was conducted by qualified experts following international best practice for auditing.

The key findings of the audit indicated that there had been ineffective program planning by the company leading to greater than necessary ground excavation, native vegetation clearance and soil impacts at a small number of locations.

On 9 October 2012, Eyre Iron was provided with a copy of the Audit Report, together with a list of Compliance Directions to be addressed by the company. A copy of the full report and all relevant appendices was also provided to all relevant parties on Eyre Peninsula involved in this debate. Eyre Iron promptly rehabilitated the relevant sites and submitted documentation demonstrating full compliance with the Compliance Directions, as well as with the conditions of the Exploration Licence, the *Mining Act 1971* (Mining Act) and Mining Regulations.

Inappropriate irrigation practices

One submission raised concerns about irrigators who water 24 hours a day, creating likely threat to aquifers and causing noise pollution. The submission suggested that water 'greedy crops' should be grown during the wetter season, or should be grown elsewhere in warmer, wetter areas. These matters relate to water allocation planning and the development of water allocation plans. Water allocation plans are legal documents that set out rules for managing the take and use of prescribed water resources to ensure resource sustainability. It is developed with the community, industry and key stakeholders for each water resource identified as being significant, or 'prescribed', under the *Natural Resources Management Act 2004*.

A water allocation plan ensures that the needs of the environment are taken into account when determining how much water is made available for consumptive purposes (licensed and non-licensed). It sets the amount of water that will be available, how that water may be allocated to users, and the types of activities that are permitted with that water. Further information can be sourced from www.environment.sa.gov.au/managing-natural-resources/water-use/water-planning/water-allocation-plans.

4.6 Aboriginal community representative's concerns

Five submissions were received that raised concerns that the draft Framework did not effectively consider the relationship that Aboriginal people have with the land, and Aboriginal land rights (including heritage and native title). Specific points raised in submissions are summarised below:

- the Framework should be consistent with the international standards of Free Prior Informed Consent, which requires governments to consult and cooperate with Aboriginal people through nominated representative institutions in good faith, in order to obtain free, prior and informed consent, before adopting and implementing measures that may affect Aboriginal people
- in recognising the unique cultural connection that Aboriginal people have to land and sea, Aboriginal people should have the right to veto particular land use activities
- place-based approaches will allow for the individual circumstances of Aboriginal communities, and the capacity of Aboriginal people to properly engage in land use discussions, to be taken into account
- suitably skilled facilitators must be engaged to undertake consultation with the Aboriginal community.

The State Government is committed to strengthening its relationship with Aboriginal South Australians and has undertaken development of new policy and legislative frameworks that recognise both the indivisible connection of Aboriginal people to land and sea, and the enduring cultural authority and right of Aboriginal South Australians to be involved in decisions that affect Aboriginal people.

By way of example, recent amendments to the *Aboriginal Heritage Act 1988*, and April 2016 release of the State Government's Aboriginal Regional Authority Policy (www.statedevelopment.sa.gov.au/upload/aard/ara/ara-policy.pdf?t=1466978020795), both exemplify place-based applications that seek to elevate the role Aboriginal leaders have in decision making, and provide for agreement making between the State Government and Aboriginal stakeholders.

The draft Framework is not intended to compromise this commitment, but is instead intended to guide land use discussions across land use sectors. It will not alter any legislative or other existing land rights, including those under the Native Title Act and State Heritage Act. It will also not interfere with the legal right of Aboriginal people to land in the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1983*, *Maralinga Tjarutja Land Rights Act 1984*, and *Aboriginal Lands Trust Act 2013*.

The State Government will continue to engage with Aboriginal stakeholders with regard to land, as is currently required. However, proper engagement with the Framework is intended to enable all stakeholders to have more effective discussions regarding land use. This presents significant increased opportunity for Aboriginal people to ensure employment, business and other outcomes are brought into discussions early and are properly considered. Importantly, individual members of the community will determine the extent they wish to be involved in these processes.

4.7 Renewables and nuclear

Eight submissions were supportive of solar power generation, six submissions supported wind power generation, one was supportive of complementary industries relating to agriculture and one submission was against wind turbines altogether. Two submissions were against nuclear power or related uranium mining and one submission was supportive of nuclear power generation.

There are a number of programs and projects relating to renewables and nuclear currently being managed by the State Government, Commonwealth Government and the Nuclear Fuel Cycle Royal Commission Consultation and Response Agency. These are separate programs and projects to the draft Framework. However, as some submissions suggested that South Australia is not doing enough to support renewable energy and raised concerns about nuclear, the Nuclear Fuel Cycle Royal Commission and the Commonwealth National Radioactive Waste Management Project, further information about these matters are outlined in sections 4.7.1 - 4.7.3 of this report.

4.7.1 Renewables

The State Government is a strong supporter of renewable energy, as it will make a valuable contribution to reducing greenhouse gas emissions and ensure a sustainable economic future for all South Australians.

The State Government's commitment in this area is demonstrated by the incorporation of a renewable energy target into South Australia's Strategic Plan. The original target sought to support development of renewable energy so that it comprised 20% of the state's electricity production by 2014. As the target was exceeded during 2010/11, a new target of 33% of the state's electricity production from renewable energy sources by 2020 was established. In 2014/15, renewable energy was responsible for approximately 41% of South Australia's total energy production. Wind energy currently provides the bulk of renewable energy generation in the state. South Australia's sixteen wind farms have a total installed capacity of 1,473 MW, representing approximately 41% of the nation's total.

In October 2013, the State Government further demonstrated its support for renewable energy by committing to an investment target of \$10 billion in low carbon generation by 2025. This is to support a renewed economic development focus, and to further support South Australia's ongoing push for increased renewable energy generation. Some of the initiatives that the Government has developed to support renewable energy generation in South Australia include:

- the Solar Feed-in Scheme
- improving access to pastoral land
- streamlined planning and approvals processes
- targeted grants.

The State Government continues to work on widening the land that renewable energy investors have access to for the development of projects. Recently, a Bill was introduced into South Australia's Parliament to amend the *Pastoral Land Management and Conservation Act 1989* in an effort to provide renewable energy investors with access to 40% of South Australia's land mass that is Crown Land subject to pastoral leases. The amended *Pastoral Land Management and Conservation Act 1989* came into operation in September 2015 and allows a wind farm developer to apply for a licence to build and operate a wind farm on a pastoral lease. This means a wind farm development can co-exist with pastoral activities in the same way as occurs on freehold farming land. The Bill also expedites access to pastoral land for solar energy projects.

The State Government has also demonstrated a willingness to financially assist developers with establishing a case for developing large-scale projects, particularly if they have the potential to boost economic and community development within regional areas. A recent example is a \$130,000 grant from the State Government's Enterprise Zone Fund to assist with Alinta Energy's plan to undertake a full feasibility and technological analysis to assess the viability of large-scale solar thermal generation in Port Augusta.

Notwithstanding state support for renewable energy, it is important to note that until there is an economically viable renewable energy solution to the problem of intermittent generation, gas and brown coal generation will continue to play an important role in maintaining the stability of the electricity network.

In addition to renewable targets, the vision for the state involves a series of Economic Priorities which includes unlocking the full potential of South Australia's resources, energy and renewable assets. Further information is available on the Renewables SA website (www.renewablessa.sa.gov.au).

4.7.2 Nuclear and the nuclear fuel cycle

South Australia has some of the world's largest uranium deposits. Olympic Dam mine near Roxby Downs in northern South Australia is the largest deposit of uranium in the world, possessing more than a third of the world's low-cost recoverable reserves and 70% of Australia's reserves. The mine, owned and operated by BHP Billiton, presently accounts for 9% of global uranium production.

Uranium mined in South Australia is strictly for use in nuclear power stations to generate electricity. Very small amounts may be used for medical research. As there are no nuclear power stations in Australia, most Australian uranium is exported.

On 19 March 2015, the State Government established the Nuclear Fuel Cycle Royal Commission (nuclearrc.sa.gov.au/) to undertake an independent and comprehensive investigation into South Australia's participation in four areas of activity that form part of the nuclear fuel cycle.

Those activities relate to the potential for the expansion of exploration and extraction of minerals, and the undertaking of further processing of minerals and manufacture of materials containing radioactive substances, use of nuclear fuels for electricity generation and the storage and disposal of radioactive and nuclear waste.

Commissioner Rear Admiral the Honourable Kevin Scarce AC CSC RAN (Rtd) released the Commission's final report on 6 May 2016 (yoursay.sa.gov.au/pages/nuclear-fuel-cycle-royal-commission-report-release/).

4.7.3 National Radioactive Waste Management Facility

The National Radioactive Waste Management Project (www.radioactivewaste.gov.au/) was established by the Australian Government to implement Australia's radioactive waste management policy. This requires that all waste generated in Australia be stored or disposed of within Australia at suitably sited facilities.

This policy is aligned with the principles of a multilateral treaty ratified by the Australian Government with the International Atomic Energy Agency for the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. This provides that "radioactive waste should, as far as is compatible with the safety of the management of such material, be disposed of in the country in which it was generated."

The development of the National Radioactive Waste Management Facility is a long term project which will involve public consultation or input at all phases of the Project. The development process is underpinned by the *National Radioactive Waste Management Act 2012*.

On 29 April 2016, the Minister for Resources, Energy and Northern Australia announced that any new nominations brought forward by landholders may be considered in addition to the shortlisted site at Barndioota, South Australia. Interested landholders are encouraged to contact the Department of Industry, Innovation and Science to discuss any potential nomination prior to submission.

4.8 Land ownership, farmers and farming

The State Government acknowledges the importance of the agricultural industry to the state's economy as well as the importance of land ownership and working with farmers and other landowners to ensure that their rights are acknowledged under law. The Reference Group intends to make changes to the draft Framework to better acknowledge farmers, land ownership and the importance of farming.

4.9 Climate change, protecting clean green image and growing food for the world

Nine submissions mentioned the need to protect our state's 'clean green image', eight submissions highlighted the importance of growing food for the world and eight submissions discussed how climate change will impact our ability to grow food and protect our way of life.

The State Government has many responsibilities including the sustainable management of our natural resources, ensuring premium food and wine is grown and exported to the world and reducing our greenhouse gas emissions to assist with combating climate change. The State Government also has responsibilities (among other things) for the encouragement of growth and innovation in our state, building infrastructure and attracting a wide range of economic opportunities and jobs to the state and the regions. All of these activities, when supported by a strong regulatory framework can deliver real benefits for all South Australians shared across current and future generations in a way that sustains and enhances our state's unique environment and liveability, while protecting our clean green image.

The State Government acknowledges the importance of the agricultural industry for growing food for the world and the importance of managing climate change. South Australia's new Climate Change Strategy was released in November 2015 in the lead up to COP21 in Paris. The Climate Change Strategy has set an ambitious target to achieve zero net emissions by 2050, and make Adelaide the World's first Carbon Neutral city.

South Australia's regions have built a strong economic base in areas such as mining, tourism and premium food and wine. Today, our regions contribute more than \$25.4 billion (2014-15) to our state's economy¹¹ and produce more than 50 per cent of overseas exports. The South Australian food and wine industry is worth over \$18.2 billion and accounts for 46% (2014-15) of South Australia's total merchandise exports¹². Mineral exports accounted for 29% of total state exports for 2015¹³.

Together, mining and agriculture comprise 74% of South Australia's exports, underscoring the continued importance of supporting our regional communities.

The State Government continues to promote economic growth in regional areas. The Regional Development Fund, which supports jobs, infrastructure and services to increase economic growth and productivity for regional South Australia has been increased to \$15 million (see Primary Industries and Regions South Australia ([PIRSA website](#))).

The State Government has committed funding of \$1.5 million over four years to build South Australia's premium food and wine credentials. To date, \$283,000 has been released in grants through the Building South Australia's Premium Food and Wine Credentials Program¹⁴. Grant rounds will be held over the next four years. Funding of \$2.6 million has also been committed over four years for regional food and wine clusters. To date, two rounds of grants have occurred totalling \$440,000. The status of other commitments are outlined at www.premier.sa.gov.au/index.php/sa-priorities/delivering-for-sa.

¹¹ *EconSearch, Input-output Tables for South Australia and its Regions, 2014-15*

¹² www.pir.sa.gov.au/data/assets/pdf_file/0020/271208/SA_Food_and_Wine_Key_Messages_Fast_Facts.pdf

¹³ www.minerals.statedevelopment.sa.gov.au/exploration/mineral_exploration_in_south_australia

¹⁴ www.pir.sa.gov.au/premium_food_and_wine/food_and_wine_credentials_grant_program

4.10 Legislation and agricultural protection

Fourteen submissions recommended that agricultural land should be protected and more support provided, while nine submissions recommended increasing 'red' and/or 'green tape' or amending legislation to favour agricultural interests.

The draft Framework outlines the state's existing (and long-term) position on multiple land use and describes ways for people to interact and engage to achieve mutually beneficial and positive relationships. It does not replace or over-ride any legislation.

The Framework will not allow mining or petroleum companies greater ease of access to farming land nor will it influence the way in which rights and obligations related to land tenure are imposed on other users. Existing legislation governs how this occurs. There is no intention to enact or amend legislation to prevent the State Government from managing the state's resources on behalf of all South Australians.

Farming, mining and petroleum production are land uses that contribute significantly to the state's economy and the impact of mining and petroleum production on farming land is recognised and considered under the Mining Act and PG&E Act as part of the regulation of exploration and production of minerals and energy resources.

In 2011 the Mining Act underwent significant amendments to strengthen landowners' rights, community engagement requirements, assessment processes and compliance tools. Effective engagement is underpinned by a commitment to establishing relationships and involves building understanding, connections, capacity, trust and promoting dialogue. Engagement is a two-way process and should be respectful. It is an integral component of policy and program development, service design and delivery processes. Effective engagement is an ongoing process: it builds trust, sets the example of good democratic practice and builds capacity.

It is also important to note that there are exempt land provisions in the Mining Act. Exempt land includes, among other things:

- land that is lawfully and genuinely used as a yard, garden, cultivated field (any field that is cultivated on a regular basis and/or is in the process of being re-established as cultivated land), plantation, orchard, vineyard, or as an airfield
- land that is situated within 400 m of a building or structure used as a place of residence
- land that is situated within 150 m of a building or structure with a value of \$200 or more used for an industrial or commercial purpose, or a spring, well, reservoir or dam, including water bores).

The Mining Act assigns special rules for freehold landowners with respect to the mining of extractive minerals, distinguishing between the mining of extractive minerals such as sand, rock, gravel and clay, and other types of minerals in a number of ways. Importantly for freehold landowners, the Mining Act confers an effective right of veto over mining of extractive minerals, as the landowner must consent in writing to mining, and this decision cannot be overruled in the Warden's Court (the mining court). It is up to the landowner if they propose to give consent that they ensure they have a comprehensive

agreement with the operator on issues of access, rehabilitation, compensation etc. Further information is provided in the [Landowners Rights and Land Access Guidelines](#).

The PG&E Act was established in September 2000 and amended in October 2009. It embraces six key principles: certainty, openness, transparency, flexibility, practicality and efficiency. While the PG&E Act does not contain a provision for the exemption of particular types of land, it does however include a provision for the right of the landholder to object to entry onto land for regulated activities according to a set of provisions outlined in the Act (see Part 10 of the PG&E Act).

The State Government, acting in the public interest, exercises the right to grant licences to third parties to explore for and develop mineral and energy resources on private land, but only after assessing any proposed development to ensure that it delivers net beneficial public outcomes. That is, balancing the potential benefits (e.g. securing vital resources, jobs, royalties, security of energy supply and industry development) against potential negative impacts (such as environmental impacts including impacts to a landowner's use of the land).

4.11 Compensation

Seven submissions noted that compensation was totally inadequate for changes to land use or that no amount of compensation was appropriate. These comments all related to mining and petroleum activities and the responses below are targeted at these areas.

The Mining Act and PG&E Act provide significant rights to the owner of the land, which include a right to object to any unreasonable access to land and provision of compensation for any economic loss at any stage, hardship or inconvenience suffered as well as a presumption of exclusion of any mining activities on exempt land. Both Acts are in line with COAG principles for best-practice regulation and have significant requirements for consultation with community on environmental and social impacts as part of the rigorous assessment process.

In addition to full compensation for economic loss, hardship and inconvenience, a landowner has a right to an additional component to cover costs reasonably incurred by a landowner, in connection with any negotiation or dispute relating to a mining operator gaining access to their land. Compensation provisions will not be incorporated into the Framework as current Acts of Parliament already provide a legal right and certainty in such matters.

4.12 Concerns about mental health

The State Government is committed to good stakeholder engagement (e.g. through legislative processes, *Better Together* and the Framework) and working with people affected by development to ensure that social outcomes are adequately considered in the decision making process. The guiding principles of the draft Framework promotes good engagement and will not change current legal rights or responsibilities.

It is recognised that economic, social and environmental changes in regional areas can be stressful. When multiple factors such as drought, reduced commodity prices, increased competition, proposals to change land use occur, it impacts individuals and communities in different ways. There are many resources available to ensure communities have the tools and support they need to maintain the health and well-being of individuals, friends and family members including the:

- mental health rural counselling service – pir.sa.gov.au/primary_industry/industry_support/farm_support
- Australian Government mental health services in rural and remote areas programme – www.health.gov.au/internet/main/publishing.nsf/content/mental-rural
- Lifeline – www.lifeline.org.au/
- Beyond Blue – www.beyondblue.org.au/

The State Government is focussed on improving the relationships between stakeholders and ensuring that everyone has the opportunity to be involved in decisions that matter to them by encouraging clear, transparent and respectful engagement that recognise peoples' concerns.

4.13 Concerns about buffer zones and impacts to existing land use

Three submissions raised concerns about buffer zones for new agricultural developments and their impact to existing land use (i.e. broad-acre farming). While buffers and the draft Framework are part of a general discussion about changing rural landscapes, the issue of buffers is not so much one of multiple land use as the management of potential for dispute between adjoining land uses.

Since mid-2015, PIRSA has been convening informal meetings with stakeholders on the subject of buffers and interface management in primary industry settings. The working group has included representation from Barossa Council, Light Regional Council, Primary Producers SA, Grain Producers SA, the Department of Planning, Transport and Infrastructure, EPA and PIRSA. The working group is mindful of the various primary industry settings where buffers or other forms of interface management may be needed. However, it has focussed its efforts to date on potential for conflict between neighbouring farmers over chemical use; in particular, requirements for downwind no-spray zones when using certain herbicide sprays adjacent to sensitive crops.

Intended outputs are likely to include information products, including a Guideline document for key stakeholder groups and recommendations regarding procedural arrangements to assist decision-making about future land use change. The working group has not sought to address or resolve existing disputes.

It should be noted that this work is subject to uncertainties surrounding the final form of the State Government's planning legislation program, and completion of a review of the Australian Pesticides and Veterinary Medicines Authority spray drift policy. The eventual outcome of those undertakings may significantly affect both the scope for and need for policy changes.

4.14 Questioning the science and independence of committees

Five submissions questioned the independence of scientists, scientific research, committees and decision makers, particularly in relation to independent baseline data of underground water and the use of 'best available science.' No specific evidence was provided.

The State Government takes scientific rigour and the independence of advisory committees very seriously. If there is any specific evidence to suggest that there has been any impropriety with regards to the collection of data, scientists, scientific research or the independence of committees, the State Government would welcome that evidence so that it can be investigated. Alternatively, the Independent Commissioner Against Corruption (South Australia) and the Office for Public Integrity (www.icac.sa.gov.au/) can be contacted.

With regards to baseline data about underground and surface water resources in South Australia, scientific reports and other information can be accessed via the WaterConnect website (www.waterconnect.sa.gov.au/Pages/Home.aspx).

A paper published by CSIRO in 2010¹⁵ on defining the 'best available science' in natural resource policy and planning contexts said the 'best available science' has the following attributes:

- follows from a policy question
- links policy and operational goals
- directly relevant to the specific planning area
- co-produced by planners and scientists working in a participatory process using 'soft skills' to reach consensus and shared ownership
- quality assurance processes in place: information is collected by established protocols, properly analysed and peer-reviewed
- recognises limitations of data and knowledge gaps
- incorporates tools for handling uncertainty and disagreement
- enables understanding of likely environmental consequences of proposed water management decisions
- acknowledges that revision is necessary to address uncertainties, limitations and inconsistencies
- establishes clear audit trails
- inclusive of scientific evidence.

Where the 'best available science' is sought or required in the context of multiple land use opportunities, these attributes are the types of factors that will be considered when assembling scientific information.

¹⁵ "Defining and using 'best available science': a policy conundrum for the management of aquatic ecosystems" CSIRO Publishing, Darren S. Ryder, Moya Tomlinson, Ben Gawne and Gene E. Likens (2010)

4.15 Perceived conflict of interest

Five submissions raised concerns about a perceived conflict of interest between DSD and investors.

Any potential for such conflict is addressed through the open and transparent regulatory processes. All governments are required to manage potentially conflicting responsibilities. Furthermore, all public servants must operate in accordance with the *Public Sector Act 2009* and the Code of Ethics for the South Australian Public Sector.

DSD has broad responsibilities and the promotional, assessment and regulatory arms of DSD operate separately. Transparency and openness enable regulatory competence, retaining knowledge and lower costs to the public through more efficient and effective regulation by more competent people than is enabled by the segregation of duties.

The regulatory philosophy of DSD and the legislation it manages is premised on a number of key principles, two of which pertain to the need to avoid potential for regulatory capture, being “openness” and “transparency”:

- Openness Principle: all regulatory objectives pertaining to the conduct of activities regulated under the PG&E Act and the Mining Act are developed, assessed and approved through comprehensive and extensive stakeholder consultation processes
- Transparency Principle: all approval, compliance monitoring and enforcement documents are available for stakeholders to review and scrutinise.

Since 2006, the Energy Resources Division of DSD has annually published and tabled in Parliament its annual compliance report detailing all the following activity for the previous 12 months:

- regulatory surveillance and approval activities undertaken
- enforcement actions taken in accordance with its compliance policy
- any serious incidents that have occurred including subsequent corrective actions.

These reports are publicly available on DSD’s website at

www.petroleum.statedevelopment.sa.gov.au/legislation_and_compliance/compliance_and_monitoring, and provide an excellent demonstration of how DSD transparently reveals industry compliance with legislation. This constitutes regulatory best practice in addressing any notion or perception of regulatory capture by industry.

Mining regulation reports, released annually, summarise the regulatory activities of DSD and the performance of the South Australian mining industry for each calendar year:

(www.minerals.statedevelopment.sa.gov.au/mining/south_australian_mining_regulatory_framework/mining_regulation_reports). The reports cover all compliance activities related to South Australia's metallic, uranium, industrial, extractive and opal mining operations.

Further to these annual compliance reports, the PG&E Act and Mining Act require all licensees to submit for public disclosure its own compliance report against the regulatory requirements and SEO criteria.

These reports are received and reviewed by DSD annually and published on its website (www.petroleum.statedevelopment.sa.gov.au/licensing_and_land_access/registers and www.minerals.statedevelopment.sa.gov.au/exploration/exploration_reporting).

Approvals for the development of South Australia's natural energy and mineral resources are informed by competent and trusted regulators using the best available science and engineering information. Only environmentally sustainable projects are provided with land access. Where a project cannot demonstrate that it can be undertaken in manner which will comply with regulatory requirements to be environmentally sustainable, approval will not be granted.

4.16 South East concerns

Twelve of the submissions received related specifically to fracture stimulation or 'fracking' in the South East. The submissions raised numerous concerns in relation to possible impacts to aquifers, property values, tourism, employment, insurance, amenity, occupational health and safety, ability to farm, health of stock and the national vendor declaration as well as the efficacy of legislation and the government agencies that manage them.

To date, no fracture stimulation has occurred in the South East, nor has there been any proposal received by the State Government for fracture stimulation in this region. Should a proposal be made, due process under the PG&E Act will be followed, which includes a legislative requirement for the company to engage with the community, consider all submissions on the specific proposal and demonstrate how the risks will be minimised or avoided.

Many of the issues raised in the submissions relate to unconventional shallow coal seam gas exploration and production (commonly occurring in New South Wales, Queensland and in the United States), which is an entirely different process, with potentially greater landscape impacts than the processes that currently occur in the Cooper Basin or would apply in the South East for exploration of deep shale and tight sandstone (should a proposal be lodged and considered by the State Government).

In light of the range of concerns raised in the submissions on these topics, a separate 'Response to South East Submissions' Report (available from yoursay.sa.gov.au/decisions/yoursay-engagements-south-australia-s-multiple-land-use-framework/outcome) has been prepared to provides responses to the questions and comments relating to fracture stimulation operations generally.

Frequently asked questions about gas and oil in unconventional reservoirs in the South East can also be found at the following web link petroleum.statedevelopment.sa.gov.au/prospectivity/resource_plays/frequently_asked_questions/gas_and_oil_in_unconventional_reservoirs_in_the_south_east_of_south_australia.

5 Next steps

With the completion of the *'What we heard'*, the *'Submission Recommendations and Response to Comments'* Report and *'Response to South East Submissions'* Reports, the Reference Group will work through the recommendations provided in the 58 submissions received, liaise with stakeholders if clarification is required and make relevant changes to the draft Framework.

The recommendations from the engagement process will assist in informing changes to this important body of work and we thank you for taking the effort to provide your thoughts on the draft Framework.

Once the Reference Group has completed the integration of submission comments into an amended draft Framework, Cabinet will be asked to consider and endorse the draft Framework. Should Cabinet approve the amended draft Framework, it will then be made publically available on the yourSAy website and will be linked on all relevant government websites. Copies of the draft Framework will be forwarded to all stakeholders and regulators will be provided additional copies for their customer service counters.

Decision makers and stakeholders will be encouraged to consider the guiding principles and key engagement mechanisms for land use and land use change projects.