



SADA Newsletter

APRIL 2019

SA Dairyfarmers' Association Inc

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Federal Budget Rap - Mixed news in SA

The Morrison Government's pre-election budget is unusual because it won't pass into law until after the 2019 election. This means if there is a change of government there will be capacity for the Labor Party to amend it should they be in power. The more likely approach, however, would be a mini-budget post-election. Given the time frames for passage it may be too difficult to amend the existing budget.

It is worth reviewing the position of SA as a whole, through the lens of the Federal Budget, the SA Budget and SA's economic performance.

But what's in it?

At a national level the budget has some good news for Australian farmers. At a state level there is one concerning outcome that may adversely impact on the rural sector in South Australia.

Nationally

At a national level the federal treasurer Josh Frydenberg has handed down a budget that does reflect positive outcomes for the rural sector.



Commitments of money include:

- \$34 million Agriculture Stewardship Package.
- Increased spending on regional roads and telecommunications infrastructure. This is a \$160 million commitment to round five and six of the Mobile Black Spots program. There is a further \$60 million commitment to the Sky Muster experience. These are positive amounts of money and amount to welcome commitments.
- Initiatives to supercharge trade and access new markets amounting to \$29.4 million toward creating new market opportunities for Australian farmers. This expenditure aligns with the SA Dairy Industry Action Plan which will be launched later this month.
- An increase in the instant asset write off to \$30,000. This will enable farms to spend on one off

capital items and write them off rather than depreciating them.

- An increased primary producer rebate for luxury car tax. *For all of you dairy farmers who drive 200 series Land Cruisers!*
- Ongoing funding for the ACCC Agriculture Unit. This unit will be encouraged by SADA to take a more active role in overseeing the dairy industry.
- Funding to expand and promote the Seasonal Worker Programme.
- Ongoing funding for drought response and preparedness, including \$4.2 million to improve the National Drought Map and development of drought indicators and improvements to the Farm Household Allowance.

The South Australian Budget



On the downside however, SA has been adversely impacted by the distribution of the GST. Over the past two years the GST

relativities have changed shaving \$517 million off the projected income of SA.

While not a decision of the federal government, as the GST distribution is carved up according to a formula agreed by the state jurisdictions. Nevertheless, the formula has fallen against SA over the past two years.

There is no doubt that the State Treasurer Rob Lucas, will be looking for places to shave spending. As it is early days yet there is no indication where the shaving is going to come from but it can be expected that services in regional and remote areas will be adversely affected.

In SA the final estimate for the 2019-20 year is \$20.1 billion. According to the 'Mid-Year' Report, the expected income for SA was \$20.4 billion. There is no doubt that figure will come down as the revenue projection shrinks slightly.

Having said that there is still a commitment from the Commonwealth to assist with major infrastructure projects in SA, including the completion of Adelaide's North/South corridor and major works in rural intersections such as the black spot which is the intersection of the Princes Hwy and the Copper Coast Hwy at Port Wakefield.

Overall Economic Position of SA

According to Comsec's State of the States report SA continues to plod along. Comsec stated: "South Australia retains fifth position on the performance

rankings ahead of Queensland. South Australia is third ranked on business investment and overall construction work done. But South Australia is sixth on three indicators."

If the states were to be rated from an overall economic position SA is the guy sitting at the bar still drinking the same beer he bought when he came in two hours ago, while NSW and Vic are jitterbugging on the dance floor. On the upside for SA we're better off than the NT which has collapsed and has fallen asleep in a toilet cubicle.

Animal Activism SADA moves swiftly

The rise of animal activism in Australia has seen SADA take a number of steps to be prepared for such activities in South Australia, should they occur. So far the general threat assessment for South Australia is low and there has been little to no chatter regarding activity in South Australia. That does not mean that it is not about to change.

Trespass itself

Recently farmers across Australia saw the arrival of the Aussie Farms animal activist website. A site that implicitly advocates for trespass onto your land by activists. This site has revealed shortcomings in the law of trespass that need to be attended to. Currently, trespass laws fall short of the mark and clearly can do with enhancement when sites like Aussie Farms are aiming to see farms attacked by the radical fringe.

It is clear, the site anticipates volunteers who are willing to break the law as it asks applicants about their willingness to be arrested or fined.

Livestock SA and the South Australian Dairy Farmers' Association (SADA), have called for an overhaul of the state's trespass laws to help defend farmers from unwanted intrusion.

Currently, the structure of laws surrounding trespass in SA are an amalgam of the common law and statute designed to attend to particular types of trespass captured in the Summary Offences Act. There is no comprehensive legislative structure around the general notion of trespass in South Australia and SA has no Trespass Act.

Animal welfare issues are at the heart of modern farming practices

and governments, representative organisations and farmers themselves come down very hard on farmers who don't meet high standards of practice.

Farmers should be allowed to issue banning notices to trespassers to ward them off the land for at least two years. Breach of such a notice should be treated as a crime.

Trespass laws should be strong enough to protect the farmers who are going about their job of feeding a nation. There is not even the slightest regard given for important issues such as biosecurity and other farm practices that are designed to protect tens of thousands of South Australian jobs.

Our society has all of the structures in place that enable people to talk about and bring about change. Breaking into farms, damaging or stealing property is not a legitimate pathway to those ends.

Over the next month SADA will have several local member briefing sessions to touch on a number of issues, not least of which will be how to manage trespass issues on your farm.

SADA has taken the following steps to address the issue in the short and long term.

1. A letter to the state Attorney General Vicki Chapman regarding changing the law to enable farmers to issue banning notices.
2. Letter to Police Commissioner and PIRSA re sharing intelligence.
3. Member update on Trespass and Day of Activism
4. Briefing with PIRSA and Security Intelligence Team SAPOL re day of Action.
5. Public lecture at Victor Harbor re trespass has already been delivered.
6. Preparation of comprehensive information leaflet re Trespass.
7. Discussion with NFF re a national position encouraging a nationally consistent approach.

Trespass Generally

Trespass is a very old concept in law. Generally, it comes in a number of forms including trespass against a person and trespass against property, particularly real property.

Trespass can be committed by a person or a thing under the control of that person. For the purposes of this paper the focus will be on trespass on a person's land by another person or an item under their control, such as a drone.

Trespass by people

The Summary Offences Act (SA) 1953 covers the notion of trespass by people in South Australia.

Section 17 deals with being on premises for an unlawful purpose. This means that a person who enters your land without a lawful reason to do so will be guilty of an offence. This is difficult from an evidentiary point of view as the prosecution has to prove an unlawful intent the proof of which is that the trespasser has committed some offence.

Section 17A deals with the general notion of trespass. In that instance the owner can tell the person to leave and if the person comes back within 24 hours they commit an offence.

It is noteworthy that the Summary Offence Act (SA) at 17B does make it an offence to tamper with gates. If someone tampers with a gate then they can be charged with a minor criminal offence.

Section 17C makes it an offence to disturb farm animals. The penalty for that offence, however, is very low and also amounts to a minor criminal offence.

The better offence to proceed with would be section 17.

Drones

Does it involve an actionable breach of an individual's right to privacy?

It's a fair bet that hovering a drone 30 metres above your farm is a trespass. Particularly if it is equipped with a camera and is observing/recording persons on the land below? Those are matters yet to be substantively settled in Australia.

Other rights might also be infringed. For example, the right to not be subjected to nuisance i.e. the right to not be stalked.

If a drone or its operator, is committing trespass, what can be done about it?

At law there are certainly actions that can be taken if you can identify the operator. The practicalities however potentially do make taking action difficult so the answer is probably not much as things currently stand.

Nevertheless, if you do see a drone and it can be followed to its pilot, record it all on your phone or take notes, particularly registration numbers and warn the pilot not to trespass.

Shooting them down is certainly not recommended.

While this newsletter describes a general outline of the law, it is also important to remember the best place to start is common sense. This paper should not be relied upon as legal advice. If there is an issue that you're seeking legal advice on you need to contact your legal practitioner.

Nothing prevents you challenging a person on your land and you may even use reasonable force to remove a person, however, such a pathway if fraught with danger, including possible physical danger if such a matter gets out of hand. Such an approach is simply not recommended.

By all means tell whoever is trespassing to leave your property and record yourself as you do it.

It is important to be aware of the need to make sure you act reasonably. If the matter escalates the risk of complaints of assault increase substantially.

Experience dictates that if you're confronting an activist, they will be recording you and they will be looking for your anger and response to post the footage on social media or to use against you if a matter goes to court.

In all instances remain calm. There is nothing to be gained from an angry response either from a media perspective or from a legal perspective.

If you do find yourself talking to any trespasser take the time to record the event on your telephone and let the person know your recording it. It will force them to modify their behaviour and recording is also a useful way to help you maintain your decorum as well.

It is much better to refer the matter to police to have them attend to it. If you tell a person to get off your land and they refuse, then the police can respond.





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You're
Invited,

To attend an informal discussion with SADA President, John Hunt and members of the SADA Board around current issues in the dairy industry including , Activism and Trespass Laws, Private label Milk, Milk supply contracts, Water, Cost of Feed and drought impacts and any other issues you'd like to raise. We will also discuss the recently launched SA Dairy Industry Action Plan and the development of a national plan for the future of the industry.

At one of the following locations;

Choose your session – click on the glass



Tuesday 23 April 11am – 3pm
Mount Schank Bellum Hotel, Riddoch Hwy.



Wednesday 24 April 11am – 3pm
Glencoe Football Club, 19 Kirip Rd, Glencoe



Tuesday 30 April 11am – 3pm
Wellington Courthouse, 678 Mason St, Wellington



Wednesday 1 May 11am – 3pm
Angaston Hotel, 59 Murray Street, Angaston



Thursday 2 May 11.30am – 3.30pm
Mount Compass Tavern, 36 Victor Harbor Rd,

RSVP to the SADA Office on **8293 2399** for catering purposes, no later than 2 working days prior to the above events. For any further enquiries don't hesitate to give us a call.

South Australian Dairyfarmers' Association Inc

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