

Factsheet

34. Pastoral land management

Pastoralism is the single largest land use in Western Australia, with over a third of the State's land area used for grazing purposes. With this land use have come a number of environmental problems – chiefly land degradation and damage to biodiversity. The pastoral region is also under environmental pressure from mining, resource development, intensive agriculture and tourism.

This fact sheet explains the laws relating to the sustainable management of pastoral leases and identifies the bodies responsible for administration and enforcement. See also **Fact Sheet 7: Clearing native vegetation**, **Fact Sheet 12: Crown land management** and **Fact Sheet 32: Land degradation**.



What is a “pastoral lease”?

A pastoral lease is a title issued by the Minister for Lands which authorises a person to use Crown land for the grazing of stock (cattle, sheep, goats and horses). It is a limited property right and does not provide the leaseholder with all the rights that attach to freehold land.

Pastoral leases have operated in Western Australia since the 1800s. All leases automatically expire in June 2015, when they are subject to renewal by the Minister for Lands (see below).



How are pastoral leases granted?

The Minister for Lands is responsible for granting pastoral leases. Before granting a lease, the Minister must consult with the Pastoral Lands Board. A pastoral lease must not be granted unless the Board is satisfied that the land will be capable of carrying sufficient authorised stock such that it is economically viable and ecologically sustainable.



What is the term of a pastoral lease?

Under the *Land Administration Act 1997*, all pastoral leases expire on 30 June 2015. A leaseholder who wishes to have a lease renewed may make an application to the Minister for Lands by 30 June 2005. Once a renewal application has been received, the Minister must refer it to the Board for advice. The Minister may refuse to renew the lease, renew it subject to further or different conditions or renew the lease only over part of the lease area. The Minister's decision must be communicated to the leaseholder at least 8 years before the lease expires, and the leaseholder has one year to accept any offer of renewal.

The State Government has announced that all pastoral leases bordering the Ningaloo Marine Park in the Shires of Exmouth and Carnarvon will be set back approximately two kilometres from the coast when they are renewed after 1 July 2015. The Government has also indicated that parts of pastoral land in other areas of the State may be excluded from lease renewals for the purposes of conservation, recreation, tourism, protection of Aboriginal sites and expansion of existing towns.



How are pastoral leases managed?

The Pastoral Lands Board is responsible for ensuring pastoral leases are managed in accordance with the Act, which includes a requirement that pastoral leases are managed on an ecologically sustainable basis.

General obligations on pastoral leaseholders

Pastoral leaseholders are required to:

- ☒ abide by the lease conditions and any directions by the Board and comply with the *Land Administration Act*,

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- ☒ manage the lease in accordance with best environmental management practices by using pastoral methods appropriate for the land and for the management, conservation and regeneration of pasture for grazing;
- ☒ maintain indigenous pasture and other vegetation on the lease to the satisfaction of the Board;
- ☒ comply with a determination by the Board on the numbers and distribution of stock;
- ☒ not allow stock agistment on the lease without the Board's written permission; and
- ☒ control declared animals and plants on the lease in compliance with the *Agriculture and Related Resources Protection Act 1976* and to the satisfaction of the Board.

The Board can set the stocking rate of a lease; require the leaseholder to make improvements to the land; and direct the leaseholder to manage and work the land to its best advantage as a pastoral property.

Failure of a leaseholder to meet any of these general obligations may result in the Board issuing a default notice. Failure to comply with a default notice is an offence and may lead to prosecution or the lease being forfeited (see below).

Special permits to undertake certain activities

A pastoral leaseholder requires a permit from the Board to undertake certain activities on the lease. The Board must not issue a permit unless the leaseholder has complied with any law relating to environmental management under the lease. This includes WA legislation such as the *Environmental Protection Act 1986* and the *Soil and Land Conservation Act 1945*.

If a leaseholder undertakes an activity without a required permit, the leaseholder commits an offence. The maximum penalty is a fine of \$10,000. A leaseholder may also be required to forfeit the lease (see below).

Activities on leases which require a permit are considered below.

Diversification of a pastoral land holding

Land under a pastoral lease may only be used for pastoral purposes. If a leaseholder wishes to use the land for another purpose (for example, horticulture, tourism or conservation), a permit is required from the Board. It is an offence to use the land for another purpose or sell any product of a non-pastoral use of the land without a permit.

Clearing land

A leaseholder cannot clear pastoral land without a permit from the Board. This does not apply to clearing which is authorised under the terms of the lease or for building improvements (for example, fencing or sheds). The Board cannot issue a clearing permit without consultation with the Commissioner of Soil and Land Conservation.

In addition to obtaining a clearing permit from the Board, pastoral leaseholders may also be required to obtain a clearing permit from the Department of Environmental Protection (DEP) under proposed changes to the *Environmental Protection Act*. Note however that a clearing permit will not be required from the DEP for the normal grazing of stock on a pastoral lease, although a permit may be required for burning vegetation on the land. For more information on clearing controls, refer to **Fact Sheet 7: Clearing native vegetation**. For information on burning controls, refer to **Fact Sheet 35: Fire controls**.

Non-indigenous pastures

A permit is required before a leaseholder sows or cultivates a non-indigenous pasture on pastoral land or sells produce derived from such a pasture.

Keeping or selling prohibited stock

A permit is required to keep or sell "prohibited stock" on pastoral land (that is, stock other than sheep, cattle, horses or goats). Note that feral goats are "declared animals" under the *Agriculture and Related Resources Protection Act*. A person may keep feral goats provided they are held in an enclosure ordinarily used for containing domestic goats. If they are not kept in an enclosure of this kind, a permit is required from the Department of Agriculture.

Aboriginal use and pastoral land

Aboriginal persons have a right to enter any unenclosed and unimproved parts of a pastoral lease for sustenance in their accustomed manner. The High Court has found that this right amounts to a form of native title, and can co-exist with the lawful operation of pastoral leases.



What happens if a leaseholder does not comply with a condition or direction?

If a leaseholder does not comply with a Board direction, a provision of the *Land Administration Act* or lease condition, the Board may issue a default notice requiring immediate compliance. Failure to comply with a default notice is an offence. A maximum fine of \$50,000 or a daily penalty of \$5,000 applies. The leaseholder may also face the forfeiture of the lease.



Other laws affecting pastoral leases

Land degradation

The Commissioner of Soil and Land Conservation can issue a soil conservation notice to control activities likely to lead to land degradation on pastoral land. Where a soil conservation notice is issued in respect to the stocking rates of pastoral land, the Commissioner must advise the Board. For further information on soil conservation notices, refer to [Fact Sheet 32: Land degradation](#).

Control of declared plants and animals

Introduced species of plants and animals may be “declared” under the *Agriculture and Related Resources Protection Act*. Landholders are required to control declared animals and plants on their land. Pastoral land is subject to a special rate to fund control programs for declared plants and animals. For further information on controlling declared plants and animals, refer to [Fact Sheet 15: Introduced plants and animals](#).

Planning approval

Before commencing development on land, approval may be required from the relevant local government. Activities that require approval varies between local governments. In some areas, earthworks that contribute to erosion may require development approval. The activities that require approval are set out in the town planning scheme of the local government. For more information, refer to the fact sheet [Fact Sheet 3: Planning laws](#) and [Fact Sheet 4: Development controls](#).

Access through pastoral leases

Private roads on pastoral leases are generally not open to the public. Unauthorised use of these roads may constitute trespass. In addition, vehicles are generally not permitted outside the boundaries of made roads within any reserve or unallocated Crown land. Significant penalties may apply to anyone damaging native flora or fauna by unlawfully driving a vehicle through native vegetation. See [Fact Sheet 12: Crown land management](#).

Access to some areas can be by a declared *public access route*. Public access routes are easements through Crown land (including pastoral land) which allow members of the public to access recreational and other areas of interest. Before a public access route is created, the Minister for Lands must consult anyone with an interest in the Crown land subject to the proposed route, and publish a notice of the proposal in a State newspaper.

Controls can also be placed on vehicular movement in particularly sensitive areas under the *Control of Vehicles (Off-road Areas) Act 1978*. Maps of prohibited areas are available for public inspection at the Department of Planning and Infrastructure or the relevant local government office. See also [Fact Sheet 32: Land degradation](#).

Pollution and environmental harm

Proposed changes to the *Environmental Protection Act* may establish an offence of causing serious or material environmental harm. It is proposed that the maximum penalty for causing serious environmental harm will be a fine of \$500,000 for an individual (or \$1 million for a company). See also [Fact Sheet 27: Pollution and environmental harm](#).

Mining

Mining operations can take place on pastoral land. For information about mining leases, refer to [Fact Sheet 36: Mining law](#)

Aboriginal heritage places

It is an offence to damage, conceal or alter any Aboriginal heritage site in Western Australia. For further information refer to [Fact Sheet 13: Protecting heritage](#).

Chemical use

Agricultural chemicals are subject to a number of controls relating to their use, transportation and disposal. These laws apply throughout the State. For further information refer to [Fact Sheet 28: Pesticides](#).

How can you become involved?

There are only limited opportunities for members of the public to provide input into pastoral lease management. Nevertheless, there are a number of things you can do if you are concerned degradation may be occurring:

- Ⓒ Report land degradation or over stocking to the Pastoral Lands Board or Commissioner of Soil and Land Conservation.
- Ⓒ Report failure to control feral animals or pest plants to the Agriculture Protection Board or the Department of Agriculture (see **Fact Sheet 15: Introduced plants and animals**).
- Ⓒ Report unlawful developments to the local Shire (see **Fact Sheet 4: Development controls**).
- Ⓒ Monitor local government agendas for development proposals that might impact on rangeland environmental values, and make submissions (whether called for or not) to the local government through the planning process (see **Fact Sheet 3: Planning laws** and **Fact Sheet 4: Development controls**).
- Ⓒ Make submissions to the Minister for Planning and Infrastructure and the relevant local government on proposals to create new roads or public access routes.
- Ⓒ Refer development proposals likely to lead to significant environmental harm to the Environmental Protection Authority (see **Fact Sheet 5: Environmental impact assessment in WA**) or Environment Australia (see **Fact Sheet 6: Commonwealth environmental impact assessment**).

Contacts and further information

Pastoral Lands Board, Midland

Tel: (08) 9273 7073

Commissioner of Soil and Land Conservation, South Perth

Tel: (08) 9368 3282

Department of Environmental Protection, Perth

Tel: (08) 9222 7000

Environmental Protection Authority, Perth

Tel: (08) 9222 7000

Department of Planning and Infrastructure, Perth

Tel: (08) 9264 7777

Department of Conservation and Land Management, Como

Tel: (08) 9442 0300

Environment Australia, Canberra

Tel: (02) 6274 1111

For copies of legislation considered in this fact sheet visit:

State Law Publisher (WA legislation)

Tel: (08) 9321 7688

Australian Legal Information Institute (Commonwealth legislation)

The Environmental Defender's Office WA (Inc)

The Environmental Defender's Office WA (EDO) is a community legal centre specialising in public interest environmental law.

The objects of the EDO include:

- ◆ to provide community groups and individuals with legal advice and representation to help protect the environment;
- ◆ to promote law reform that improves environmental protection; and
- ◆ to provide community education about environmental law.

The EDO is a non-profit, non-government organisation. The EDO receives its principal funding from the Federal Attorney-General's Department. However, these funds are limited and donations from the public provide a vital source of funds for many of our activities. Donations over \$2 are fully tax deductible. The EDO also welcomes people with a commitment to the environment to join as members.

If you require legal advice on an environmental issue or wish to find out more about the EDO, please contact us at the following address:

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