



An introduction to Pastoral Land Management

Pastoralism is the single largest land use in Western Australia, with 35% of the State's land area used for grazing purposes. Pastoral land use has created a number of environmental problems – chiefly land degradation and damage to biodiversity. The range lands of Western Australia, as they are known, are also under increasing 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 for the lease of an area of Crown land to use for the limited purpose of grazing of stock (cattle, sheep, goats and horses), and ancillary activities. 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 current pastoral leases automatically expire in June 2015, when they are subject to renewal by the Minister for Lands.

How are pastoral leases granted?

The Minister for Lands is responsible for granting pastoral leases. Once an application for a pastoral lease (or an application for a renewal) has been received, the Minister must consult with the Pastoral Lands Board (“the PL Board”) in relation to conditions, sale prices, and the evaluation of the applicants. A pastoral lease must not be granted unless the PL Board is satisfied that the land will be capable of carrying sufficient authorised stock to enable it to be economically viable and ecologically sustainable.

Terms and renewal of leases

Under the *Land Administration Act 1997 (WA)* (“the LAA”), a pastoral lease may not exceed a term of 50 years. Additionally, if a pastoral lease is granted over land which has already been subject to a pastoral lease, the term of the new lease may not be greater than the term of the previous lease.

The Minister may refuse to renew a lease, renew it subject to further or different conditions; or renew the lease over only part of the lease area. In the case of a renewal application, 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 an offer of renewal.

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All current pastoral leases were granted under the now repealed *Land Act 1933* (WA), and therefore all expire on 30 June 2015. Most lessees have already been given and accepted a conditional offer to renew.

Some parts of pastoral land were excluded from lease renewals for the purposes of conservation, recreation, tourism, protection of Aboriginal sites and expansion of existing towns. Additionally, the State Government announced on 28 November 2002 that all pastoral leases bordering the Ningaloo Marine Park in the Shires of Exmouth and Carnarvon would be set back approximately two kilometres from the coast when they are renewed after 1 July 2015.

Pastoral Lands Board

In relation to the sustainable management of pastoral leases, the PL Board is responsible for:

- Advising the Minister on policy relating to the pastoral industry and pastoral leases.
- Ensuring pastoral leases are managed on an ecologically sustainable basis.
- Developing policies to prevent the degradation of rangelands, rehabilitate degraded or eroded rangelands and restore to their pastoral potential.
- Establishing and evaluating a system of pastoral land monitoring sites.
- Monitoring the numbers and the effect of stock and feral animals on pastoral land.
- Conducting or commissioning research into matters relevant to the pastoral industry.

General obligations on pastoral leaseholders

Obligations on the pastoral leaseholders to protect environmental values on their property include that the leaseholder must:

- abide by the lease conditions, any directions by the PL Board, and the LAA;
- use methods of best pastoral and environmental management practices, appropriate to the leased land, for the management of stock, and conservation and regeneration of pasture for grazing;
- maintain indigenous pasture and other vegetation on the leased land to the satisfaction of the PL Board;
- comply with a determination by the PL Board on the minimum and maximum numbers and distribution of stock to be carried on the leased land;
- not allow stock agistment on the leased land without written permission from the PL Board; and
- control declared pest animals and invasive plants on the leased land in compliance with the *Agriculture and Related Resources Protection Act 1976* (WA) and to the satisfaction of the PL Board.

The PL Board can also set the stocking rate of a lease, and require the leaseholder to make improvements to the leased land.

Failure of a leaseholder to meet any of these 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.

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Requirement to manage lease as a pastoral property

There is an overriding requirement under the LAA for a pastoral leaseholder to manage and work the leased land to its best advantage as a pastoral property. The PL Board has no power under the LAA to exempt a leaseholder from this requirement.

A permit is also required for any non-pastoral use carried out on a pastoral leasehold property. Permits may be granted for certain non-pastoral uses on a pastoral property, so long as the property as a whole continues to be managed for pastoral purposes. These permits (considered below) are sometimes referred to as “diversification permits”.

“Pastoral purposes” is defined as the commercial grazing of authorised stock. Agricultural, horticultural or other supplementary uses are only permissible if they are inseparable from, essential to, or normally carried out in conjunction with the grazing of authorised stock, including the production of stock feed. Additionally, it is an offence to sell any product of a non-pastoral use of the leased land without a permit.

If a leaseholder wishes to use the leased land for a non-pastoral purpose, a permit is required from the PL Board. Permits can be granted to use the land for:

- the production of crop, fodder, horticulture, or other agricultural production, although it must be reasonably related to the pastoral use of the land;
- tourism, although it must be pastoral-based tourism and purely supplementary to pastoral activities; and
- the non-pastoral use of enclosed/improved land.

The PL Board must not issue a permit unless the leaseholder has complied with any written law relating to environmental conservation which is applicable to the leased land.

If a leaseholder undertakes any non-pastoral activity without a required permit, the leaseholder commits an offence. The maximum penalty is a fine of \$10,000, or up to five times this amount in the case of a body corporate. A leaseholder may also be required to forfeit the lease.

Clearing on pastoral leases

A leaseholder cannot clear leased land without a permit from the PL Board. This does not apply to clearing which is authorised under the terms of the lease or necessary for the construction of improvements permitted under the lease (i.e. fencing or sheds). The PL Board must consult with the Commissioner of Soil and Land Conservation before granting the permit.

In addition to obtaining a clearing permit from the PL Board, pastoral leaseholders are required to obtain a clearing permit from the Department of Environment and Conservation under the *Environmental Protection Act 1986* (WA). For more information on clearing controls, refer to [Fact Sheet 7: Clearing native vegetation](#).

Growing non-indigenous pastures

A permit is required before a leaseholder can sow or cultivate a non-indigenous pasture on leased land. Further, a permit is required by a leaseholder to sell fodder or other produce derived from a non-indigenous pasture.

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When making an application for a permit of this kind, the pastoralist will need to state the species of grass that they intend to use, as the application will go through an environmental impact assessment before approval. The Department of Agriculture and Food, Department of Environment and Conservation and Department of Regional Development and Lands have put together a list of low risk, moderate risk and high risk grass species for the rangelands. DEC has stated that certain species that are considered high risk such as Buffel grass or Pearl millet will not be permitted to be grown on pastoral leases in any circumstances.

Keeping or selling prohibited stock

A permit is required to keep or sell prohibited stock on leased land. Prohibited stock is defined as any stock other than sheep, cattle, horses or goats, except those kept for domestic use.

In addition, some breeds of stock, such as banteng cattle (a breed of feral cattle), are subject to controls as declared pest animal species under the *Agriculture and Related Resources Protection Act 1976* (WA). For more information about a pastoralist's responsibility to control declared species, contact the Department of Agriculture and Food, and see, [Fact Sheet 8: Biodiversity conservation and control of introduced species in Western Australia](#).

Aboriginal rights to use pastoral land

Aboriginal persons have a right to enter and seek sustenance in their accustomed manner on any unenclosed and unimproved parts of a pastoral lease.

As pastoral leases do not give a right of exclusive possession of the land to the leaseholder, they do not necessarily extinguish native title rights and interests. Native title rights may continue to exist to the extent that the rights and interests later granted to the leaseholder are *not inconsistent* with those native title rights and interests.

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

If a leaseholder does not comply with any provision of the LAA or the lease, any condition set or determination made by the PL Board under the Act, a condition of a permit issued in respect of the lease, or a soil conservation notice, the PL Board may issue a default notice requiring immediate compliance. Failure to comply with a default notice is an offence, carrying a maximum fine of \$50,000 or a daily penalty of \$5,000. In the case of a body corporate, penalties are up to five times these amounts. The leaseholder may also face the forfeiture of the lease.

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. If a soil conservation notice requires the reduction of stock on a pastoral lease, the lease holder may also be allowed a reduction in rent. The Commissioner of

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Soil and Land Conservation must advise the PL Board before a soil conservation notice is issued in respect to the stocking rates of pastoral land. For further information on soil conservation notices, refer to [Fact Sheet 32: Land degradation](#).

Control of declared plants and animals

Many species of introduced animals and plants are “declared” under the *Agriculture and Related Resources Protection Act 1976* (WA) as species that require control. Landholders have an obligation to control these declared species on their land. For further information on controlling declared plants and animals, refer to [Fact Sheet 8: Biodiversity conservation and control of introduced species in Western Australia](#).

Development and improvements on land

The PL Board may require the lessee to make improvements to the land, in which case they will request the lessee to submit a development plan to the PL Board. The lessee must then make improvements in accordance with the plan as approved by the PL Board. The lessee is also required to maintain, restore or replace improvements to the pastoral lease.

Before commencing development on land, approval may be required from the relevant local government of the area. The activities that require approval vary, but will be set out in the relevant town planning scheme. For more information, see [Fact Sheet 3: Planning Law](#) 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. However, some pastoral lessees do grant the public permission to enter their property.

Access to some areas can be allowed 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 first consult the pastoral lessee and obtain their consent in writing and must also publish a notice of the proposal in a State newspaper, with an invitation for the public to comment.

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

Mining

Mining operations can take place on pastoral land. For more information, see [Fact Sheet 36: Mining law](#).

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How can you become involved?

There are 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 that environmental 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 pest animals or invasive plants to the Department of Agriculture (see [Fact Sheet 8: Biodiversity conservation and control of introduced species in Western Australia](#)).
- Report unlawful developments, improvements or clearing to the local Shire or the Pastoral Lands Board (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 Lands and the relevant local government on proposals to create new roads or public access routes over pastoral leases.
- 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 Department of the Sustainability, Environment, Water, Population and Communities (see [Fact Sheet 6: Commonwealth environmental impact assessment](#)).

Contacts and further information

Pastoral Lands Board, Tel: (08) 9347 5126

Department of Regional Development and Lands, www.rdl.wa.gov.au, Tel: (08) 9347 5000

Commissioner of Soil and Land Conservation, Tel: (08) 9368 3282

Department of Environment and Conservation, www.dec.wa.gov.au, Tel: (08) 6467 5000

Environmental Protection Authority www.epa.wa.gov.au, Tel: (08) 6467 5600

Department of the Sustainability, Environment, Water, Population and Communities
www.environment.gov.au, Tel: (02) 6274 1111

For copies of legislation considered in this fact sheet visit:

State Law Publisher (WA legislation) www.slp.wa.gov.au, Tel: (08) 9426 0000

Comlaw (Commonwealth legislation) www.comlaw.gov.au

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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 and State Attorney-General's Departments.

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:

Environmental Defender's Office WA (Inc)

Suite 4, 544 Hay Street, Perth WA 6000

Tel: (08) 9221 3030

Fax: (08) 9221 3070

Freecall: 1800 175 542 (for WA callers outside the Perth metropolitan region)

Email: edowa@edowa.org.au

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