



Friday, 13 September 2013

Ms Lauren Mesiti  
Standing Committee on Public Administration  
GPO Box A11  
PERTH WA 6837

e-mail: [lcpac@parliament.wa.gov.au](mailto:lcpac@parliament.wa.gov.au)

Dear Ms Mesiti,

#### INQUIRY INTO PASTORAL LEASES IN WESTERN AUSTRALIA

Please find attached my submission to the Inquiry into *Pastoral Leases in Western Australia* to the Public Administration Committee.

I am available to appear before the committee subject to the constraints of my location near Broome and work commitments.

Yours sincerely,

David Stoate  
DIRECTOR

## **Submission to Standing Committee on Public Administration – Inquiry into pastoral leases in Western Australia.**

**David Stoa**

**September 2012**

Please note that I am a Deputy Member, Pastoral Interests on the Pastoral Lands Board. The opinions expressed in this document are mine alone and in no way reflect the opinions or policies of the Pastoral Lands Board.

---

Inquiry into pastoral leases granted to the pastoral industry in Western Australia and, in particular

- a) the management of the increase in the number of stock and environmental damage on pastoral land;
- b) the adequacy of security of pastoral tenure
- c) procedures for granting or renewing pastoral leases
- d) the proposed pastoral lease 2015;
- e) any other matter

### **Management of the increase in stock on pastoral land and environmental damage on pastoral land.**

Environmental damage on pastoral land has occurred over a long time. Any response to environmental damage must be balanced and measured. In addition, any consideration of the grazing pressure on pastoral land must also take into account the number of feral animals in pastoral areas. In a number of areas, feral animals have been successfully controlled and thus have reduced overall grazing pressure.

The pastoral industry is subject to a prodigious array of regulation. These include:

- The *Land Administration Act* (1997) which contains a number of regulatory provisions:
  - S95d requires the Pastoral Lands Board (PLB) to develop policies to prevent the degradation of Rangelands.
  - S95c requires the PLB to ensure that pastoral leases are managed on an ecologically sustainable basis.
  - S95e requires the PLB to develop policies to rehabilitate degraded or eroded rangelands and restore their pastoral potential.

- S95g requires the PLB to establish and evaluate a system of pastoral land monitoring sites.
- S108 outlines the lessees duties as to how the pastoral lease is managed.
- S111 outlines how livestock and feral animals are to be managed on a pastoral lease.
- The *Soil and Land Conservation Act (1945)* has as it aims the conservation of soil resources and the prevention of erosion.
- The Environmental Protection Act 1986 outlines the role of the Environmental Protection Authority and has the broad objective of protecting the State's environment.

It seems that these regulations have not been successful in the past In preventing environmental damage in some areas of the rangelands. It also appears that Government response to environmental concerns has been muted despite the vast array of regulatory back-up. There are a number of reasons for this including:

- the vague and nebulous outcomes specified by the regulations. For example, the LAA specifies that pastoral lease are managed on an ecologically sustainable basis. This concept is not defined in the Act and can clearly be interpreted in a variety of ways.
- lack of resources to enforce the regulations. Clearly the resources of Government are limited and the resources that can be devoted to such problems are shrinking. Watson (2012), reports that rangeland condition inventory assessments by the Department of Agriculture and Food ceased in 2008 and that some pastoral leases were last surveyed in 2004.
- failure of extension programs from Government agencies and lack of private providers of extension services in the Rangelands.

It is a fundamental tenet of human behaviour that to achieve a desired outcome it is more effective to reward good behaviour than to punish bad behaviour. Environmental outcomes may therefore be better achieved through the use of incentives rather than punishments (or the threat of punishments). The Department of Agriculture and Food have developed tools to improve rangeland condition – the EMU and ESRM programs as described by Safstrom and Waddell (2012). It appears that there has been little adoption of these programs.

It is also worth noting that ivestock production in the rangelands can be the most environmentally benign form of food production. Livestock production has been cited as a possible solution to environmental degradation by Allan Savory through his holistic management programs.

## **The Adequacy of Security of Pastoral Tenure**

Pastoralists in Western Australia have the least secure form of tenure and are paying the highest level of lease rent. The more secure the tenure, the more likely it is to achieve positive environmental outcomes. This will mean a greater focus on long term sustainable outcomes rather than short term exploitation.

Land tenure must give business the confidence to invest. It must give banks confidence to lend to the industry. The 2015 expiry of pastoral leases has focused attention on the quality of tenure available to pastoralists in Western Australia.

A rolling tenure with a long term is required to give certainty to the industry. This could be achieved by amending legislation through an automatic right of renewal subject to certain conditions being met.

## **Procedures for Granting or Renewing Pastoral Leases**

I have no experience in the granting of pastoral leases. The major issue with the renewing of pastoral leases is the term of the lease. A number of pastoral leases will have terms less than 50 years through no fault of their own.

## **The Proposed Pastoral Lease 2015**

Government should be endeavour urging to reduce the regulatory burden placed on business wherever possible.

The existing Land Administration Act also places a number of unnecessary regulations on the industry including:

- the requirement to seek permission to agist stock on a pastoral lease - s111 (2) of the LAA. There is no requirement to gain permission to increase the number of stock held on a lease by a leaseholder if the stock are owned by the leaseholder.
- the requirement to seek permission from the Minister to sell a pastoral lease (Sec 134 of the LAA)
- restrictions on the maximum area of leased land a person may hold – s136 of the LAA.

Recently the Pastoral Lands Unit of the Department of Lands circulated a draft pastoral lease document. The draft document raised a number of concerns including:

- The requirement for the lessee to indemnify the lessor as outlined in 9.3 (a) (i), 9.3 (a) (ii), 9.3 (a) (iii). Many different parties access pastoral leases including mining companies, traditional owners, wildlife enthusiasts and travellers seeking help. The lessee should not be required to indemnify the lessor against the actions of groups such as these.
- Similar to the point raised above, the requirement for the lessee to maintain insurance against the events outlined in 9.4 (a) (i) (A), 9.4 (a) (i) (B), 9.4 (a) (i) (C) is not appropriate in all instances.
- The termination provisions in clause 11.2 on terminating the lease appear to be draconian. The clauses in 11.2 (a) (i) (A), 11.2 (a) (i) (B), 11.2 (a) (i) (C) should allow for businesses to trade out of financial difficulties.
- Clause 11.2 a (iii) outlines the possibility of terminating the lease for a breach of the *Animal Welfare Act 2002*. There are already a range of penalties applicable for breaches of this Act which presumably would be applied to a livestock owner. It is not necessary for additional penalties to apply.
- Clause 12.1 (a) (ii) requires the lessee to yield up lawful improvements “in a state of good repair...”. This seems a puzzling inclusion, given the improvements are owned by the lessee.

## **Any Other Matter**

### **Pastoral Lease Rents**

The pastoral lease rent methodology is in dire need of reform. Pastoral lease rents increased by up to 700% at the time of the 2009 review. This occurred at a time of rising input costs and falling cattle prices. Economic conditions for the pastoral industry have weakened considerably since then with the enforcement of the 350kg weight limit to Indonesia in 2010 and the suspension of the trade to Indonesia in 2011.

Pastoralists are charged lease rents at a rate ten times that prevailing in Queensland and the Northern Territory (Table 1).

**Table 1 – Lease rates charged to pastoralists by the State Government**

State	Lease Rate Return
Queensland	0.2%
Northern Territory	0.2%
Western Australia	2.0%

The current determination of pastoral lease rents in Western Australia has a number of perverse outcomes. These include:

- the explicit encouragement to exploit the resource base. Pastoral lease rents are determined based on carrying capacity of the lease. Many pastoralists carry more stock on their lease than the carrying capacity figure. With the lease rent determined by the carrying capacity rather than the actual number of stock on the lease, the methodology explicitly encourages high stocking rates on the lease.
- the level of improvements on the lease affect the unimproved value of the lease as determined by the Valuer General. This provides a negative incentive for pastoralists to develop their lease.
- It is virtually impossible for a pastoralist to contest their level of lease rent through the State Administrative Tribunal. To contest the rent outcome, requires the lessee to engage legal representatives and a valuer at least. This makes making a challenge prohibitively expensive.

### **Sovereign Risk**

Much of the attention in recent years has been on the actions of the Federal Government and its decision to suspend exports of cattle to Indonesia. However, the State Government has over time a far greater say on the fortunes on the pastoral industry in Western Australia. The inability of the current Government to introduce any meaningful reform of pastoral lease tenure and the large increases in pastoral lease rents show the risks the industry faces from State Government actions.

Local Government also remains an important source of sovereign risk for the pastoral industry. In my own case, our business pays \$30,000 in local Government rates and receives absolutely no services for this payment.

The result of the actions of all three levels of Government has been to result in the pastoral industry in Western Australia facing an unprecedented level of sovereign risk.

### **Diversification**

Diversification is held up as a suggested solution to the industries problems. I think the potential for diversification to save the pastoral sector is overrated. Note that other activities are likely to have adverse environmental impacts which need to be considered

The Western Australian Rangeland Reform Program has the objective of facilitating economic diversity by providing options for new forms of tenure to allow broad-scale and varied land uses and investment opportunities in areas such as tourism, intensive agriculture and horticulture (Duncan, 2012). It is not clear how the Rangeland Reform program will meet these objectives. It remains disappointing that no progress has been made in the area of rangeland reform.

### **Economic State of the Industry**

The pastoral industry in Western Australia has been buffeted by a number of factors over the last five years. These include:

- The sharp increase in input costs in particular fuel and labour. Diesel prices increased significantly in 2008 and have only moderated slightly since then.
- Persistently low cattle prices since 2007 resulting from a number of factors including the high Australian dollar, the closure of markets such as Malaysia and problems with other markets as outlined below.
- The sharp increase in pastoral lease rents in 2009 which in many cases flowed on to local Government rates.
- Enforcement of a weight limit of 350kg per head for all livestock imported into Indonesia in 2010.
- The cessation of live cattle exports to Indonesia by the Australian Government in June 2011.
- The subsequent imposition of quotas on live cattle and boxed beef imports into Indonesia with the objective of obtaining self-sufficiency in beef production.

These factors have combined to make conditions extremely bleak for the pastoral industry in Western Australia. A number of different studies have illustrated the difficult financial conditions facing producers:

- McCosker et al., (2010), found that the northern beef industry is in its worst state since the beef slump of the 1970's with average return on assets of 0.3% to 2.0%. Average beef producers tend to be spending more than they have earned in 6 of the last 7 years, indicating the northern beef industry is generally in a very unprofitable and unsustainable state.
- The financial sustainability of pastoral production in the southern rangelands of Western Australia was found to be under grave threat due to falling terms of trade in the wool industry, wild dog predation of small stock, successive failed seasons and increasing infrastructure maintenance costs (Government of Western Australia, 2009).
- A review by P. Novelly cited by Safstrom and Waddell (2013), demonstrated that a significant proportion of pastoral enterprises are unviable as stand-alone businesses due principally to the limited size of their flock or herd.

It is notable that a number of these reports were carried out before the closure of the Indonesian market with its immediate and ongoing effects.

## **CONCLUSIONS**

The pastoral industry in Western Australia is in a unique position. The geographical location of the industry near markets in Asia means there are opportunities for the industry to expand. Whether these opportunities can be captured is a choice – it is not automatic or guaranteed that the industry will be able to capture these opportunities. It is the role of Government to create an environment where business can flourish. This role includes the provision of infrastructure in addition to creating an appropriate regulatory environment.

The pastoral industry in Western Australia has enormous opportunity to expand in Western Australia. The industry faces an unprecedented level of sovereign risk which is inimical to the development of the sector. This parliamentary committee can assist to mitigate the level of sovereign risk at two levels - state and local.

It is time the actions of Government matched the rhetoric. The current State Government is another example of a Government which is long on rhetoric and short on action when it comes to developing the pastoral industry in Western Australia.



## REFERENCES

Government of Western Australia (2009) *A Review of the Economic and Ecological Sustainability of Pastoralism in the Southern Rangelands of Western Australia*.

McCosker, T, McClean, D and Holmes, P (2010) *Northern Beef Situation Analysis 2009*. Meat and Livestock Australia Limited, North Sydney, NSW.

Safstrom, R.D. and Waddell, P.J (2013) Using economic, social and ecological spatial patterns to guide policy development in the Pilbara and Southern Rangelands of Western Australia. *The Rangeland Journal*, **35**, 231-239.

Watson, A. (2012) *Report to the Pastoral Lands Board on the condition of the Western Australian Pastoral Resource Base*. Department of Agriculture and Food and the Commissioner of Soil and Land Conservation.