



THE  
**PEW**  
CHARITABLE TRUSTS



Legislative Council Standing Committee on Public Administration  
INQUIRY INTO PASTORAL LEASES IN WESTERN AUSTRALIA

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Thank you for the opportunity to provide this submission.

### **Our organisations**

Pew Charitable Trusts is a global, independent non-profit organisation that uses a rigorous, analytical approach to improve public policy. Pew's work in Australia focuses on seeking the protection and good management of Australia's Outback landscapes, one of the few great natural places remaining on the planet.

Gondwana Link Ltd is the lead body for a program reconnecting habitats across south western Australia, from the south west forests to the woodland and mallee adjoining the Nullarbor. Through our work in the Southern Rangelands we have been concerned to note the tenuous state of the pastoral sector, the difficulties it faces in being commercially and environmentally sustainable and the legal constraints placed on public good management.

The Conservation Council of Western Australia (CCWA) is the State's foremost non-profit, non-government conservation organisation. We are WA's peak environment and sustainability group with over 90 member groups and have been an outspoken advocate for conservation and a sustainable WA for over 45 years.

### **Introduction**

This inquiry comes at a critical period for Western Australia's pastoral leases and the pastoral industry as a whole. Our interest lies in ensuring a positive future for remote Western Australia, including pastoral use where this is an environmentally and economically sustainable option.

In our submission we draw the Committee's attention to a number of critical issues that must be addressed by Government to ensure the long-term survival of the Western Australia's Outback environments, communities and economies.

Foremost among these issues is the need to overhaul the current land tenure approach to lands under pastoral lease. This is discussed in Section 4, *New forms of rangelands leasehold*. Related to this issue is the need for Government to publicly recognise the inherent unsustainability for pastoralism of many Crown Land areas that are currently let as pastoral leases. This is discussed in Section 5 *Linking land use to land capability*. We believe that solutions are possible for these two issues which provide economic and social development opportunities for regional people and ensure environmental protection.

However, firstly, our submission draws the Committee's attention to a number of salient points we believe are key in the current situation with pastoral leases in Western Australia.

## **Current perspectives**

### **1. Pastoral leases cover a significant portion of Western Australia**

We understand that there are 453 pastoral stations on 508 pastoral leases occupying around 35%, or 874,000 km<sup>2</sup>, of the land area of Western Australia. This equates to about 40% of the 2,175,000 km<sup>2</sup> of remote lands within the state. There are 57 leases owned or managed by Aboriginal People and about 42 leases owned by mining interests. A number of these leases are primarily managed for conservation, tourism ventures or as lifestyle or residential properties, or used primarily for other uses despite this being outside of the current conditions of a Pastoral Lease<sup>1</sup>.

As these statistics show, the current leasehold arrangements cover vast parts of the state and cover, to varying levels, the active management of these areas by families, companies, Traditional Owners and non-government organisations.

We believe it is fundamental for the future of the rangelands to keep land managers on these properties. This is especially important given the condition of many of these areas and the improved land management needed.

### **2. Many pastoral leases are inherently unviable for commercial grazing**

Given current and likely future terms of trade, the natural levels of productivity of many vegetation types covered by pastoral leases cannot support economically sustainable pastoral use.

Reports prepared by the Department of Agriculture and Food in 2012 concluded that only:

- 72 of the 154 leases in the Northern Rangelands<sup>2</sup> and
- 46 of the 292 leases in the Southern Rangelands<sup>3</sup>

are considered commercially viable when stocked at rates within the leased land's inherent stock carrying capacity (i.e. rates which will not cause long-term land degradation and will provide a reasonable financial return).

Hence, 53 % of leases in the Northern Rangelands and 84% of the leases in the Southern Rangelands were considered unviable in these two studies<sup>4</sup>. In the Pilbara (part of the Northern Rangelands study), 80% of the 62 leases are considered unviable.

These statistics come as no surprise to those close to the pastoral sector and confirm the findings of a number of previous Government-backed studies and inquiries into the use of the rangelands for pastoralism over the past fifty years. (For example, a WA Legislative Assembly Select Committee report in 1991<sup>5</sup>, a Report on the Condition of the Gascoyne Catchment by the Department of Agriculture in 1972<sup>6</sup>, and a report of the Pastoral Leases Committee in 1963<sup>7</sup>.) All of these studies have highlighted the difficulties faced in maintaining commercially sustainable pastoral operations on a majority of current leases.

This provides a significant challenge and opportunity for government.

### **3. The current legislative framework fails to encourage long-term sustainable land use of the rangelands**

Since the creation of pastoral leases from the 'wastelands' of the colony during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, much has changed: the profitability of many properties has declined, the condition of many properties has deteriorated<sup>8</sup>, and the uses of pastoral lands have widened in response to changes in profitability, rangeland condition, the aspirations of Aboriginal People, the increased recognition of environmental values and economic opportunities other than grazing.

Yet the way in which legislation and government procedures administer pastoral leases has changed little since the *Land Act* of 1933. This is exemplified through two aspects of the applicable legislation:

- a) The *Land Administration Act 1997* under which pastoral leases are now administered essentially constrains the leased land to be used for pastoral purposes. This restriction continues to this day even though there is a broad recognition among stakeholders that the large areas of lease lands are inherently unsuitable for stock grazing at commercially profitable levels; and
- b) The legally questionable use of the Diversification Permits system under the Act to regulate significant land use variations on areas held as pastoral leases. Diversification Permits can be provided for supplementary activities consistent with pastoralism but are not a legally valid mechanism for large scale changes in land use that effectively see leased land used for purposes other than pastoralism, such as farming operations, lifestyle & residential, conservation and tourism<sup>9</sup>. Our understanding of the permits is that they cannot be used to validate a primary activity, as this violates the future act provisions of the *Native Title Act 1993*. However, our understanding is that Diversification Permits are now being used as a process to permit major alternative uses to pastoral operations on many leases. As at August 2009 there were 45 diversification permits in existence: 33 for tourism; one for sowing non indigenous pastures; six for agriculture; two for horticulture; and, three for aquaculture.<sup>10</sup>

## **A way forward**

We believe it is critical that Government's future management of pastoral leases, including the 2015 program of lease renewal, bases pastoral land use on the inherent capability and stock carrying capacity of the land, regardless of the economic or environmental objectives of government, leaseholders or the conservation sector. Under this objective, government must encourage and support those people in the rangelands to actively manage and conserve the rangeland's natural resources, biodiversity, long-term productivity and natural attributes.

### **4. New forms of rangelands leasehold**

The greatest need is for Government to reform the land tenure system to enable leasehold lands to be used and managed for purposes that are best suited to their long-term productivity and capability. This will not always be for pastoralism, as the statistics noted above make clear.

The current system of a 'one-size fits all' pastoral lease is not appropriate for the diversity of land capabilities and land uses that the rangelands can and are being used for. As a case in point, the constraints of a Pastoral Lease under the *Land Administration Act 1997*, with or without a Diversification Permit, mean that many pastoral leaseholders who are not conducting a pastoral operation as their primary long-term use of the land are likely to be operating outside of the terms of their lease.

Offering a range of land use tenure options will ensure a stronger economic, environmental and social future for the rangelands. It will provide greater security for those planning and investing in new ventures and will attract a greater number of people to live in the rangelands and undertake on-ground land management.

It is recommended that a number of rangeland tenure types be available to leaseholders to accommodate the broad current and future land uses of the rangelands. These primary land uses include pastoralism, conservation, tourism, indigenous use, carbon sequestration, restoration or any combination of the above. Tenure reform must recognise the legitimacy of each of these (and other) primary land uses in their own right, and not just as adjuncts to pastoralism.

Ideally, the land tenure reform process should occur concurrently with the lease renewal process and the other reforms discussed in this submission.

Whilst it is acknowledged that changes in land tenure will eventually trigger the future act provisions of the *Native Title Act 1993*, this will only occur where a leaseholder wishes to take advantage of the new land tenure options. This is a necessary step in the evolution of pastoral land management into the 21<sup>st</sup> century and will require the support of government.

### **5. Linking land use to land capability**

In regards to the Inquiry's terms of reference a) – *the management of the increase in the number of stock and environmental damage on pastoral lands* – it is critical that government move towards a lease system based on land capability. Land capability is the inherent ability of a site to sustain a land use, such as grazing, in the long-term. Given that many lands under pastoral lease are not capable of sustaining grazing at economically viable levels (see references noted above) the WA Government

needs to establish a system (including management standards) where leaseholders are able to move towards sustainable land uses over all or part of the lease. Ideally, this will be part of the 2015 renewal process or kept as a conditional option moving forward into the new 2015 leases.

To assess lease land capability, government can use the mapping and assessment of rangelands prepared through the Department of Agriculture and Food's WA Regional Rangeland Survey Program. This has mapped and classified the ecosystems of WA's pastoral leases into 554 different land systems and is used to determine the inherent stock carrying capacity of leasehold land.<sup>11</sup> Any lease renewal or granting of any new lease needs to be underpinned by this objective, technically based information.

## **6. Security of land tenure over leasehold lands**

In response to the Inquiry's terms of reference (b) *adequacy of security of tenure* - we support an arrangement where leaseholders are offered a lease renewal subject to an assessment of the leases inherent viability and the ongoing sustainable management of the leased site. The same levels of security of tenure, and obligations to pro-actively undertake sustainable management, should apply to any form of rangelands lease, whether the primary land use is pastoralism, conservation, indigenous use or any other land use class.

A related issue is the significant constraint the lack of security of tenure is placing on investment by mining companies in broad-scale environmental management of pastoral leases. Public good management to restore these lands to their original condition is being limited by the grazing conditions of their lease and by the subsequent lack of ongoing security for improvements made.

## **7. Transitional arrangements and social objectives**

We recognise that the next 5 to 10 years will be a critical period for the pastoral sector and for rangeland management more broadly. This is not only because of the 2015 lease renewal process, but the range of other issues facing the pastoral sector including underlying profitability, deterioration of rangeland condition and increasing land management needs. Whilst it is critical that government shift the sector onto a more commercially and environmentally sustainable footing as indicated elsewhere in this submission, it is also important that leaseholders are given fair and reasonable support to ensure that they are able to move towards more sustainable land use management systems. Or, where underlying land capability is too low, they are provided assistance to convert their leases or exit the industry.

It is important that an underlying principle of the 2015 lease renewal program and the pastoral and rangelands reform process is to keep people on the land wherever possible, to ensure it is wisely conserved, managed and used. We emphasise this key point. For social, economic and environmental reasons it is essential that government support sustainable land uses which keep people in Western Australia's Outback regions. Australian landscapes need active management to remain healthy, to maintain the right fire regimes and to control feral animals and noxious weeds.

## 8. Government support for the system of rangeland leases

It is essential that Government adequately resource the Pastoral Lands Board and Department of Agriculture and Food to adequately implement, monitor and manage the public lands leased for the various purposes discussed above. Government investment in the assessment of rangeland condition, the identification of low-viability leases and assistance to leaseholders to transition to sustainable land uses is essential to attract people and private investment to the rangelands in the future.

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We welcome the opportunity for ongoing dialogue with the Committee on this important issue and we request the opportunity to present to the Committee and discuss the issues. Please contact Mr Peter Price on 0418 926529 and [peter.price@greatww.org](mailto:peter.price@greatww.org).

## References

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<sup>1</sup> A review of the Process to Permit Diversification on Pastoral Leasehold Land in Western Australia; A Report to the Minister for Agriculture and Food, August 2009, Perth.

<sup>2</sup> A Report on the Viability of Pastoral Leases in the Northern Rangelands Region Based on Biophysical Assessment, P E Novelly & D Warburton, Department of Agriculture and Food WA, 2012, Perth.

<sup>3</sup> A Report on the Viability of Pastoral Leases in the Southern Rangelands Region Based on Biophysical Assessment, P E Novelly & D Warburton, Department of Agriculture and Food WA, 2012, Perth.

<sup>4</sup> See <sup>2</sup> and <sup>3</sup> above.

<sup>5</sup> WA Legislative Assembly Select Committee into Land Conservation, Discussion Paper No. 3 Pastoral Region of Western Australia, by M.G. House *et al*, June 1991.

<sup>6</sup> A Report on the Condition of the Gascoyne Basin, by D.G Wilcox and E.A McKinnon. Technical Bulletin No. 2, Department of Agriculture, 1972.

<sup>7</sup> A report of the Pastoral Leases Committee appointed to inquire into and report to His Excellency the Governor upon matters relating to the Pastoral Industry, March 1963.

<sup>8</sup> The condition of pastoral lands has deteriorated such that 30% of lands were assessed to be in poor or poor to fair condition in the 2007/08; In: A Review of the Process to Permit Diversification on Pastoral Leasehold Land in Western Australia; A Report to the Minister for Agriculture and Food, August 2009, Perth.

<sup>9</sup> *Ibid*.

<sup>10</sup> *Ibid*, p 6.

<sup>11</sup> For example: An Inventory and condition survey of the Pilbara Region, Western Australia, Technical Bulletin 92, By A.M.E. Van Vreeswyk, A.L. Payne, K.A. Leighton and P. Hennig, Department of Agriculture, 2004, Perth.

