



Government of **Western Australia**  
Department of **Lands**



# **Land Administration Amendment Bill 2016**

## **Public Comment Submission**

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## Land Administration Amendment Bill 2016 Submission to the Department of Lands

The Department of Lands (DoL) wants to know what stakeholders think about the proposed amendments to the *Land Administration Act 1997* (LAA).

This document contains a series of guiding questions that reflect those included in the Consultation Paper. The guiding questions are intended to provoke open-ended responses from stakeholders, rather than simple yes-no answers. Each guiding question has a text box beneath it for the response. There is no limit on the length of the response. The final text box is for any comments on issues not covered by a guiding question.

Persons making a submission are encouraged to include their name, company or organisation name, address, email and/or phone number. This ensures that the Department can contact you if further information is required, or if a team member would like to discuss your submission in further detail.

Should you wish your details to remain confidential, please inform the Department of Lands in writing at the time you make your submission.

Please note that Freedom of Information access requirements will apply to all submissions.

### How do I make a submission?

To submit your feedback to the Department of Lands, please use one of the following methods:

- Complete the on-line survey on the website;
- Download and complete the submission form from the website and email it as an attachment to:  
[Rangelandssubmissions@lands.wa.gov.au](mailto:Rangelandssubmissions@lands.wa.gov.au)
- Download and complete the submission form, print it out and mail it to:  
Rangelands Submissions  
Department of Lands  
PO Box 1143  
West Perth WA 6872

## Amendments to the Land Administration Act: Rangelands Tenure and Part 7

### Discussion Point 1

#### *Consultation Paper Part 3: Rangelands Lease*

The proposed rangelands lease is a new form of tenure that will allow for multiple and varied uses of the rangelands, provided the use is broad scale and consistent with the preservation and ongoing management of the rangelands as a resource. The rangelands lease is designed to meet an increasing demand for a suitable tenure to support more diverse activities on the rangelands by pastoralists and new entrants. Pastoral lessees may choose to apply to convert their existing lease to a rangelands lease. New entrants may apply for a rangelands lease. In both cases, native title requirements will have to be met before a rangelands lease can be issued.

Would you consider applying for a rangelands lease? If so, for what purpose or purposes? If not, why not?

No we will not be applying for a lease, but we would encourage the development of rangelands leases to meet outdoor recreation development and the needs of the WA community. As the WA population increases there is a growing need to have in place outdoor places and spaces where active outdoor recreation can be pursued.

### Discussion Point 2

#### *Consultation Paper Part 3: Statutory Right of Renewal of Compliant Pastoral Leases*

The proposal is to establish a statutory right of renewal for compliant pastoral leases, which will provide greater security of tenure. The amendments provide that the Minister will renew a pastoral lease for the same term if there is no outstanding breach of the conditions of the lease, the LAA or rangeland condition monitoring requirements. Lessees must write to the Minister requesting renewal of a pastoral lease in the eleventh year before the expiry of the lease. In the case of wholly compliant lessees, the Minister must make an offer for the renewal of a pastoral lease at least eight years before the date the lease is due to expire.

Are you supportive of the proposed statutory right of renewal for compliant pastoral leases? If so, please explain why. If not, please provide reasons.

The right to a significant tenure is supported. However it would be unreasonable to expect that a term of 50 years tenure has an automatic renewal clause where there has been no current test for community value. It would be preferred that all lease arrangements contain a level of scrutiny to ensure that the community, environment and social value to all West Australians is being delivered.

### Discussion Point 3

#### *Consultation Paper Part 3: Statutory Right of Renewal of Compliant Pastoral Leases*

If a pastoral lessee is not compliant at the time the Minister makes a decision in relation to lease renewal, the Minister may decide:

- not to offer a renewal of the pastoral lease;
- to offer a renewal on different terms and conditions;
- to offer a renewal on the same, or different terms and conditions, but over a part only of the pastoral lease; or
- offer a renewal on the same terms and conditions, in spite of the breaches identified.

The proposed amendment will ensure that pastoral lessees have the right to appeal to the State Administrative Tribunal (SAT) should the Minister determine that a lease will not be renewed, or renewed on different terms and conditions or only over part of the pastoral lease. The intent is to ensure that decisions made in relation to the renewal of pastoral leases are reasonable and fair.

Do you think that the amendment that enables pastoral lessees to have a right to appeal to the SAT if the Minister for Lands makes an adverse decision regarding the renewal of their lease is fair and reasonable? If so, do you agree that the SAT is the most appropriate venue for such an appeal? If not, why not?

There is support for a clear mechanism that allows for an appeal whilst ensuring the delivery of community outcomes. It is unclear how the SAT would determine if the community benefits are being delivered?

### Discussion Point 4

#### *Consultation Paper Part 3: Increase the Term of a Pastoral Lease*

The option for pastoral lessees to increase the term of their leases to a maximum of 50 years is being proposed. Increasing the term of a pastoral lease is a future act under the *Native Title Act 1993 (Cth)* and will therefore require the lessee to address the relevant native title requirements before any extension can be granted.

Is it of value to pastoral lessees to have the option to increase the term of their lease to a maximum 50 year term? If so, why? If not, why not?

All large lease terms should require a demonstration of economically, socially and ecologically sustainability alongside native title requirements.

## Discussion Point 5

### *Consultation Paper Part 3: Statutory Transfer of Permits Issued Under Division 5 Part 7 to an Incoming Lessee*

A pastoral lessee may diversify the activities it undertakes on the lease through a diversification permit issued under Part 7, Division 5 of the *Land Administration Act 1997*. It is proposed to enable the transfer of these permits together with the lease to an incoming lessee.

Is there any advantage in being able to transfer permits with the lease to an incoming lessee? If so, why? If not, why not?

No comment.

## Discussion Point 6

### *Consultation Paper Part 3: Requirements to Provide a Management Plan for a Pastoral Lease*

At present, section 107 of the LAA provides that the Pastoral Lands Board may require a pastoral lessee to produce a development plan, outlining how improvements on the lease will be made. The proposal is to replace the requirement for a development plan with a management plan. A management plan is intended to cover a broader range of issues than improvements and include land condition and lease management for both pastoral and rangelands leases. The preference is for the Minister and DoL to work with the lessee to achieve better land condition outcomes, which will be of benefit to the lessee and the rangelands estate more broadly.

Is the current requirement for a development plan an adequate tool to support the ecologically sustainable management of a pastoral lease? If so, why? If not, why not?

The proposal for a clear management plan is supported and the management plan should have included within it the range of community benefits to be included in the lease. Outdoor recreation and associated activities like camping should form a component of the management plan.

## Discussion Point 7

### *Consultation Paper Part 3: Requirements to Provide a Management Plan for a Pastoral Lease*

If a development plan is not adequate, what issues should be covered by the proposed management plan? Are there any other issues that should be considered for inclusion? Please provide as much detail as you can.

Management plans should not just address the commercial or ecological aspects of the lease they should cover a broader range of management aspects including:

Management plans should cover a range of specific areas including:

- The vision for the lease and how it meets the triple bottom line of community, environment and commercial benefit.
- The integration of management and adjacent land uses
- The guiding principals under which the land will be improved and conserved?

Including impacts on flora, fauna and landforms

- Rehabilitation targets, aesthetic protection and landscape amenity
- Cultural heritage
- Recreation management strategies. Management of access, visitor usage, outdoor recreation activities permitted and community usage.
- Visitor safety
- Community involvement
- Implementation and evaluation of the management strategies.

A good example of these types of management process can be drawn from the management plans used by the Department of Parks and Wildlife and for visitor safety from the WA Adventure Activity Standards.

## Discussion Point 8

### *Consultation Paper Part 3: Future Governance of the Rangelands*

There will be a number of provisions common to both pastoral and rangelands leases in the amended *Land Administration Act 1997*, which are designed to ensure that there is equitable, consistent and transparent decision making for all leases in the Rangelands. The best way to do this is for there to be a single authority responsible for all types of leases in the Rangelands. The appropriate authority for decisions over, and the administration of, Crown land is the Minister for Lands, who holds all decision-making powers for all types of leases except pastoral leases.

At present the Pastoral Lands Board (PLB) holds some decision making powers that the Minister does not have. While the Minister for Lands has the power to direct the PLB, it is not administratively efficient to have to rely on this mechanism to ensure that the policies of the elected government are implemented. The PLB's functions relate solely to pastoral leases, and this is reflected in the membership requirements of the PLB. It does not have a broader rangelands focus. It is proposed to provide more modern and accountable governance and administration of the rangelands through dissolving the PLB and transferring any powers it holds to the Minister for Lands.

Is the proposal to bring the administration of pastoral leases, the proposed rangelands lease, and other leases that may be issued in the Rangelands under the single decision making authority of the Minister for Lands appropriate? If so, why? If not, why not?

In any transfer of powers there should be developed a clear mechanism for community input and consultation on the community benefits from any lease arrangements.

### **Discussion Point 9**

#### ***Consultation Paper Part 3: Future Governance of the Rangelands***

The proposal is that the Minister must seek the advice of an independent expert if he or she is considering making an adverse decision on rangelands condition management and issuing a Stock Notice, Default Notice or Notice of Intention to Forfeit or to not renew a pastoral lease or to renew it on lesser terms. The Minister will not be bound by the advice but is bound to take it into account in reaching a fair decision. It is proposed that industry representatives will assist the Department of Lands in the selection of a panel of pastoral industry and rangelands experts, who will be available to provide advice to the Minister on rangeland condition issues.

Is the obligation for the Minister to consult and consider the advice of an independent expert prior to making an adverse decision on rangelands condition management a fair process? If not, why not?

Yes the involvement of expert advice is supported. However the industry representatives should also include community members that can provide a broader input on whether the lease is supporting community interests such as recreation alongside commercial or environmental standards.

### **Discussion Point 10**

#### ***Consultation Paper Part 3: Future Governance of the Rangelands***

In order to fulfil the Government's objective of ensuring sustainable economic, social and environmental outcomes for all of the Rangelands (87% of Western Australia), it is proposed to establish a Pastoral and Rangelands Advisory Board (PARAB) to provide the Minister for Lands with strategic advice. The proposed PARAB will be independent from government and will not be a substitute for the Pastoral Lands Board (PLB). The PARAB will not make decisions on individual leases.

Do you consider the proposed PARAB to be an appropriate body to provide strategic advice to the Minister for Lands on matters related to the sustainable development of the Rangelands? If so, why? If not, why not and from whom should the Minister for Lands receive such strategic advice?

The PARAB is supported if a community and recreation stakeholder is included in addition to the members expertise in the areas of regional development, business and industry development, mining resource management, Aboriginal interests, sustainability, tourism, and natural resource management, conservation or sustainability.

## **Discussion Point 11**

### ***Consultation Paper Part 3: Future Governance of the Rangelands***

The proposed Pastoral and Rangelands Advisory Board (PARAB) is intended to provide the Minister for Lands with independent expert advice in relation to the Rangelands, drawn from a broad range of relevant private sector experience, including, tourism, conservation, mining, natural resource management, regional development, and Aboriginal interests. At least two members must have pastoral experience.

Do you think the proposed Pastoral and Rangelands Advisory Board targets the appropriate mix of experience and expertise on issues and industries to provide the Minister for Lands with strategic advice on the Rangelands? If so, why? If not, which areas of expertise do you think are lacking, or which areas of expertise listed do you think are not required?

No the range of expertise suggested is skewed towards only commercial or environmental outcomes. If the rangelands are to provide community benefits such as increased access to outdoor recreation, increased educational access to these areas then there should be representation in these areas.

## **Discussion Point 12**

### ***Consultation Paper Part 4: Quantification of Benefits***

The legislative options outlined in the draft Bill and the Consultation Paper can be considered a package from which lessees can choose as appropriate. The take up of new tenure options is discretionary; pastoralists could choose to continue under their existing leases.

Two models, one each for the non-legislative and legislative options, were produced to estimate the costs and benefits of implementing the Program. The detailed calculations pertaining to modelling of Options 2 and 3 are included at Attachments 4 and 5 to the Consultation Paper. No model was produced for Option 1, the status quo situation.

Option 2 shows that non-legislative options may yield modest benefit with a net present value of \$638 094 (Attachment 4).

Option 3 shows that the costs to business of implementing a range of the reform measures could amount to \$11.618 million over 10 years (not including the cost of new business investment), based on estimated voluntary take up of proposed new tenure options (See

Attachment 5, \$1 per hectare sheet). In addition, the total cost to government over 10 years under this scenario could be up to \$8.095 million, which averages 1.94 percent of the Department of Lands budget.

Option 3 produced a range of results, based on increases in productivity of 20c per hectare, 40c per hectare and \$1 per hectare, being used. The net present value of these net cash flows at a discount rate of 8 per cent over a period of 10 years ranged from a negative value of -\$1.786 million, for the 20c per hectare model to a value of \$28.061 million for the high income scenario of \$1 per hectare. In terms of benefits, the increase in gross business revenue is expected to range between \$13.785 million and \$69 million over the 10 year period, across the three scenarios.

The models for Options 2 and 3 take into account the cost to Government, which is subtracted from the business benefits to arrive at a net benefit. The net present value of the cost to Government of Option 2 is -\$1 547 163 and for Option 3 is -\$2 706 290 (Attachment 4; Attachment 5, \$1 per hectare sheet respectively).

**Table: Summary of the Net Present Value for Options 1, 2, and 3**

<b>NPV Analysis</b>	<b>NPV Benefits (Additional Income) (\$)</b>	<b>NPV (Administration Costs) (\$)</b>	<b>Benefits less Costs (\$)</b>
<i>OPTION 1: No change</i>	Nil	Nil	Nil
<i>OPTION 2: Non-legislative option</i>	2 185 258	-1 547 163	<b>638 094</b>
<i>OPTION 3: Scenario 1 - Rangelands lease 20c/ha, Permit \$15 000</i>	919 662	-2 706 290	<b>-1 786 621</b>
<i>OPTION 3: Scenario 2 - Rangelands lease 40c/ha, Permit \$30 000</i>	8 381 597	-2 706 290	<b>5 675 307</b>
<i>OPTION 3: Scenario 3 - Rangelands lease \$1/ha, Permit \$75 000</i>	30 767 404	-2 706 290	<b>28 061 114</b>

Having seen the cost-benefit analysis (summary above), are you more or less likely to apply for a Rangelands Lease? Why?

This model places no monetary value on the value of conserving the landscape or increasing social access. It therefore is very limited in being able to demonstrate from these scenarios the real Net Value proposed. If this sort of modelling is to be used then an agreed value needs to be placed on the social benefits to balance the projected societal value of these changes.

### **Discussion Point 13**

#### ***Consultation Paper Part 4: Extent to which options achieve the objectives***

Please detail any other costs, benefits, advantages, disadvantages or issues not discussed in the Consultation Paper that you think should be considered?

There is limited address to any of the community values that will be delivered by this plan, or how these will be ensured within the compliance mechanisms proposed. This should be a key component of the proposal.

### **Discussion Point 14**

#### ***Consultation Paper Part 3: The status quo and the implications of maintaining it***

Do you consider that the forms of tenure currently available in the *Land Administration Act 1997* are adequate for current and future businesses in the Rangelands? If so, why? If not, why not?

No, there is not adequate measures to provide broader community benefits from the current lease arrangements.

### **Discussion Point 15**

#### ***Consultation Paper Part 3: The status quo and the implications of maintaining it***

Should the current legislative framework be retained? If so, why? If not, why not?

The proposal put forward provides an impetus for change, if the change results in increased outdoor recreation development and an increased social return for West Australians then it is supported.

## Discussion Point 16

### Consultation Paper Part 3: Non-regulatory Options

Are there other possible non-legislative changes that would assist pastoral businesses? If yes, please provide as much detail as possible.

Yes, if the proposal is to change land usage towards an alternative business model then there will be a need for additional training and support to develop these business models. For example pastoral lease holders wanting to run an outdoor adventure business would need to be upskilled to a Certificate IV in Outdoor Recreation. Investment in this training would be critical to ensure a smooth transition.

### Any other comments

Please provide any further comments on the proposals to amend the *Land Administration Act 1997*, that you may have.

Outdoors WA would encourage the further development of outdoor recreation opportunities within the new lease arrangements. The setting up of new campsites and areas in which a diversity of outdoor pursuits can be undertaken along with the development of new tracks, trails and outdoor spaces in Western Australia will benefit the health and wellbeing of our community.