

The Rangelands account for over 87% of the land mass in Western Australia (**WA**), and is estimated to be valued at \$73 billion.

The Rangelands currently comprise of a mix of pastoral leases, unallocated Crown land, unmanaged reserves, conservation reserves and other tenure. Current commerce in the Rangelands relates to pastoralism, resources, agriculture and tourism activities, but remains substantially under-utilised.

To increase productive capacity and economic value, the WA Government is proposing to introduce significant reforms to permit more varied uses of the Rangelands, while ensuring sustainability is maintained. Predominantly, these reforms relate to the *Land Administration Act 1997* (WA) (**LAA**), and will mostly affect the agricultural, pastoral, resources and finance sectors. Among other changes, the proposed amendments:

- increase the maximum area subject to pastoral or rangelands leases from 500,000 to 1,500,000 hectares;
- promote support for new investment opportunities and land uses;
- provide for alternative tenure options; and
- include more security and certainty of tenure.

At this stage, there will be no change to water rights schemes or established processes to obtain development approvals.

The draft *Land Administration Amendment Bill 2016* (**Draft Bill**) was released for public comment by the Department of Lands on 5 April 2016. The key reforms under the Draft Bill are summarised below.

Establishment of 'new' rangelands lease

Pastoral leases make up around a third of the Rangelands area. However, pastoral leases limit land use to pastoral activities. The most significant reform is the introduction of a new 'rangelands' lease, which will diversify the types of land use permitted in the Rangelands. The Draft Bill states that a rangelands lease may be sought '*for any purpose that is... principally consistent with the preservation of the rangelands as a natural resource*'.

Therefore, lessees intending to use the Rangelands for activities beyond grazing livestock can be innovative about the proposals which may result in the grant of a rangelands lease, assuming preservation of the Rangelands is not jeopardised. The Minister of Lands (**Minister**) will have a wide discretion as to whether the arrangement will be allowed, and in particular, has the power to impose conditions, grant options to renew and stipulate the lease term.

The Department of Lands (**Department**) has indicated that these leases may be granted for:

- broad scale agriculture and/or horticulture activities;
- Aboriginal economic development and land management;
- conservation purposes; and
- other novel projects.

Rangelands leases are not intended to replace pastoral leases. However, the Draft Bill provides for the conversion of pastoral leases into rangelands leases. Notably, rangelands leases will not be granted over Crown leases or other land tenure innately inconsistent with the rationale of these leases.

Changes to pastoral leases

Presently, pastoral leases are granted for extensive periods of time, and have no right of renewal. The Draft Bill introduces a statutory right of renewal for pastoral leases that conform to lease conditions imposed, as well as the LAA, during the given term. Amending the LAA to introduce a statutory right of renewal removes any Ministerial discretion on renewing pastoral leases, and confers a right on the lessee to appeal unfavourable renewal decisions to the State Administrative Tribunal.

Furthermore, the Draft Bill specifies that, subject to native title implications, pastoral leases of a short tenure can be extended to a term of 50 years upon application to the Minister. These amendments are intended to facilitate business planning over the long term, and promote investment in the pastoral trade.

Transfer of diversification permits

The current function of 'diversification' permits is to allow particular activities related to pastoral use to occur on land upon which pastoral leases operate. However, such permits are non-transferable, and are tied to the lessee. Proposed amendments in the Draft Bill will permit lessees to transfer these permits to purchasers. Among other things, this will enable the asset value of the lease to reflect income streams earned from these activities.

New Pastoral and Rangelands Advisory Board

The Draft Bill intends to replace the Pastoral Lands Board (**PLB**), which is in charge of administering pastoral leases, with a new Pastoral and Rangelands Advisory Board (**Advisory Board**). The Advisory Board will comprise of representatives from a broader range of areas than the PLB, such as Aboriginal interests, natural resource management and regional and business development. However, at least 2 members will be experts in the pastoral industry.

The Advisory Board will have reduced powers, as the current advisory and decision-making functions of the PLB, as well as the administration of leases, will be transferred to the Minister. Instead, the Advisory Board will be responsible for tactical advice and assistance with respect to Rangelands matters, as well as research on related issues and considerations.

Native Title

Rangelands leases will warrant compliance with the 'future act' procedures, as per the *Native Title Act 1993* (Cth), in order to meet native title requirements. Often, this will mean the lessee must enter into an Indigenous Land Use Agreement with the relevant native title group/s.

Although the WA Government intends to provide some support with respect to native title implications from the reforms, the uncertainty of the process may be a significant impediment to obtaining leaseholds in the Rangelands.

Land Management

The Draft Bill intends to impose more stringent land management obligations for pastoral and rangelands lease holders. For instance:

- if the lessee is found to contravene land management and conservation laws, the Minister has a broad range of powers that can be enforced, for instance, the forfeiture of leases, refusal of lease renewals or varying or annulling diversification permits in place;
- barring exceptions, lease holders will be required to manage the land using 'best environmental practice' measures applicable and maintain indigenous pasture and vegetation, as well as other forestry on the land; and
- lessees will be subject to annual reporting obligations (to the Minister) regarding the condition of the land leased, and furthermore, the Minister may require lessees to produce a land management plan if there is reason to believe that the lessee is not handling the land sustainably.

Although there appears to be broad public support for the reforms, some of the proposed changes, such as dissolution of the PLB, as well as added compliance constraints, are emerging as controversial. Submissions on the Draft Bill are due on 5 May 2016, and the Draft Bill may be modified as a result of stakeholder feedback.

The Department has indicated that the Draft Bill will be introduced to Parliament in June 2016, with a view to pass the legislation prior to the State election. Anyone affected by the planned changes should carefully consider the Draft Bill and make submissions for amendments if appropriate.

Please contact us if you have any queries about the imminent Rangelands reform in WA.

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