



30 January 2023

Department of Mines, Industry Regulation and Safety
Mineral House
100 Plain Street
EAST PERTH WA 6001

Via email RTD.Consultation@dmirs.wa.gov.au

RE Mining Amendment Bill 2023

INTRODUCTION

The Pastoralists and Graziers Association of WA (PGA) is a non-profit industry organisation established in 1907, which represents primary producers in both the pastoral and agricultural regions of Western Australia. Current pastoral membership numbers equate to 84% of all pastoral leases, excluding Indigenous and conservation leases.

As the peak organisation representing Western Australian pastoral lease holders, we are pleased to provide this brief submission on the *Mining Amendment Bill 2023*.

BACKGROUND

The Bill seeks to amend the *Mining Act 1978* (Mining Act) following on from the consequential amendments to section 92B(2) of the *Land and Public Works Legislation Amendment Bill 2022* (LPWL Bill), which was introduced into Parliament on 23 November 2022. The LPWL Bill allows for a diversification lease, a new non-exclusive broad based land tenure option for Crown land that can coexist with other land uses (multiple land uses).

Carbon farming (referred to in the Bill as “offsets project” to more closely align with Commonwealth legislation) is regarded as a pastoral activity and can be undertaken on pastoral leases. The LPWL Bill amendments will also allow carbon farming to be carried out on diversification leases, which according to the Government may significantly impact resource exploration and resource projects.

Without the Bill amendments, carbon farming proponents may seek to exclude resource industry uses of land through objections to grant of tenements and associated resource activities.

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Currently, no objection to a mining tenement application is available on the grounds that it would affect pastoral activities. To maintain the status quo, the amendments provide that objections to a mining tenement application **will not** be available on the grounds that it would affect carbon farming. The Bill amendments do not preclude objections on other grounds.

CARBON FARMING ON PASTORAL LEASE LANDS

On 5 December 2019, the State Government announced it would consent to pastoralists earning carbon credits via the Commonwealth Government's Emissions Reduction Fund.

State consent is initially limited to the "Human-Induced Regeneration" method of carbon farming. This methodology involves pastoralists undertaking activities such as managing the timing and extent of livestock grazing to allow for the regeneration of native vegetation in degraded areas. Measured increases in native vegetation over time are then used to calculate the extent to which additional carbon has been sequestered, with carbon credits issued accordingly by the Commonwealth Government.

The Department of Planning, Lands and Heritage (DPLH) assesses applications for the State's EIH consent on behalf of the Minister for Lands. Part of the process administered by DPLH is the exclusion of specific areas. This is to reduce the impact on resource activities and the carbon farming project. DPLH requires the carbon project proponent to do the following:

- Granted mining leases and associated general purpose leases and miscellaneous licences, and petroleum production licence areas <1 block must be formally excluded from the project area unless the mining lease owner agrees the activities can take place. The State requires evidence of any such agreement prior to its EIH consent being given.
- Pending mining leases and associated general purpose leases and miscellaneous licences must be formally excluded from project areas unless the mining lease owner agrees the carbon farming activities can take place on the area. The State requires evidence of any such agreement prior to its EIH consent being given.

Other mining tenements including prospecting licences, exploration licences, and retention licences do not need to be formally excluded from the project area.

Any impacts on holders of mineral exploration and prospecting licences are addressed through commitments by the State Government to:

- pay compensation to carbon farming proponents as a result of low-impact mining and exploration activities.

ISSUES

Currently a pastoral lease can only be used for pastoral purposes, which includes the commercial grazing of stock, and any supplementary and ancillary purpose to facilitate that. While a pastoralist may apply for a diversification permit to undertake activities for non-pastoral purposes, these are only granted in limited circumstances and would not allow for the development of hydrogen and other renewable projects.

Diversification leases may only be a viable option for pastoralists with other interests, or those who can gain large investments. However, a diversification lease may be an avenue for pastoralists to establish carbon projects and participate in the Commonwealth's ERF scheme. It is also worth noting that the proposed reforms in the LPWL Bill include the potential for the Minister to approve the extension of the term of a pastoral lease for up to 50 years. This means that prospective areas may well be unavailable for longer periods of time.

SUMMARY

The PGA is concerned that by not allowing an objection to a mining tenement application solely based that it may impact on carbon farming projects, carbon farming proponents, including pastoral and diversification lease holders will be disadvantaged.

Carbon farming, particularly in the rangelands, can require access to very large land areas. While mining tenements can be excised from carbon farms with very little adverse impact, there are still concerns over the timing and awarding of compensation over lost earnings, as well as the delays in future restoration.

Pastoral lease holders who have carbon farms have legally binding contracts with the State Government. Their rights need to be recognized.

Although there is no question over the importance of the mining industry to the Western Australian economy, one cannot underestimate the value of the pastoral industry to regional and remote WA. Any move to limit the rights of pastoral lease holders to the advantage of the mining industry should be treated with concern.

We look forward to discussing these and other issues in a more detailed submission, once the terms of reference are finalised.

Yours faithfully



Tony Seabrook
PGA President