



15 August 2022

Land and Public Works Legislation Amendments
Department of Planning, Lands and Heritage
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RE Proposed Policy Framework Guiding the Use of Diversification Leases on Crown Land

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 *Proposed Policy Framework Guiding the Use of Diversification Leases on Crown Land*.

BACKGROUND

On 28 June 2022 the State Government released its new draft policy that will guide the future approval process and use of diversification leases on Crown land.

The policy framework will form part of a process to encourage economic diversification and investment by providing pastoralists, Native Title parties and others to be involved in renewable energy projects including carbon farming, hydrogen, wind and solar markets, and assist with the McGowan Government's 2050 net zero emissions target.

DIVERSIFICATION LEASE

Specifically, a diversification lease is currently proposed to allow proponents to:

- develop the wind and solar farms required for hydrogen production;
- pursue carbon farming projects;
- pursue horticulture projects;
- develop cultural tourism businesses; and
- preserve or rehabilitate biodiversity.

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.

In order for a diversification lease to be granted over an area already covered by a pastoral lease, the pastoral leaseholder will need to surrender that portion of the pastoral lease. The proponent seeking the diversification lease (either the pastoralist or a renewable energy developer) would then need to go through all the approvals processes for the grant of the diversification lease. It is unclear what impact the surrender of part of a pastoral lease would have upon the requirements of the remaining portions of the lease, including any impact to stocking numbers and whether the remaining footprint is sustainable.

Nonetheless, the requirement for a pastoralist to surrender a portion of their lease would mean any project proponent will need to negotiate with existing pastoral leaseholders to achieve the surrender of the relevant site so that it is available for a diversification lease - the Government has explicitly provided that a pastoral leaseholder will not be compelled to surrender their tenure, notwithstanding it may have been identified as a prospective site for a hydrogen or renewable energy project. It is also worth noting that the proposed reforms 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.

These reforms have not removed the existing avenue available to pastoralists to seek diversification of their activities (diversification permits). A pastoralist can apply to the Government for a diversification permit to conduct non-pastoralist activities on a pastoral lease. The proposed reforms will focus on streamlining approvals processes for diversification permits and allowing for a diversification permit to be transferred at the same time as a pastoral lease. However, despite these proposed reforms and as flagged above, diversification permits would likely remain unsuitable for proponents of hydrogen and other renewable energy projects.

One area where there is no further clarity in these proposed reforms is the interaction between the proposed diversification leases and existing mining tenements. There are currently potential sites for hydrogen and renewable energy projects located on mining tenements, and in many cases the use case for these projects may not be a purpose directly connected with mining. It will be necessary to carefully review the proposed legislation to determine how the interaction between mining tenure and these new diversification leases will be managed, including whether there will be any changes to the Mining Act processes.

SUMMARY

Some pastoralists have raised concerns about the practicality of the diversification lease and whether the proposed amendments will make much difference to the average pastoralist. Most renewable energy projects are very costly and require investment from external sources in order to be established.

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.

NEW MODEL FOR DETERMINING PASTORAL RENTS

The proposed amendments to the LAA provide for a new model for determining pastoral rents, commencing on 1 July 2024, based on a CPI model which will increase with inflation each year on 1 July and adjusted via a market rent review every ten years.

The starting point for rents on this date will be whichever is the lowest out of the current rent for the pastoral lease, or the average rent for the pastoral lease over the last 20 years (as determined in 1999, 2004, 2009, 2014 and 2019).

The CPI review date will fall annually on 31 December with the rent determination to take effect the following year on 1 July. Rents will be changed in line with the Perth All Groups Consumer Price Index (the current Perth CPI for the June 2021-22 quarter in 7.4%)

The market rent review interval is extending from five years to every ten years, with the next review to take effect on 1 July 2029. The new valuations will be based on market data as of 1 July 2028, and the Valuer General will provide the department with the proposed new rents by 31 December 2028.

SUMMARY

The PGA is concerned that the proposed CPI increases are based solely on the Perth All Groups Index, and not on a regional CPI Index, which was originally discussed in detail with the PLB. Having regional rents increase by a metro-based CPI Index, creates an artificial inflation rate which does not accurately reflect true inflation in the regions, especially throughout the pastoral estate.

Further, the PGA remains concerned that there is no cap on the maximum increase for the Market Review. Given the increase to ten years, it is conceivable that there would be significant increases (+25%), which would severely impact most leaseholders.

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

Yours faithfully



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