



Guide to Proposed Amendments to the Pastoral Land Act 2011



The objectives of the *Pastoral Land Act* (the Act) when passed in 1992 were in part to provide a form of tenure of Crown land that facilitated the sustainable use of land for pastoral purpose and the economic viability of the pastoral industry and to provide for the prevention or minimisation of degradation of or other damage to the land and its indigenous plant and animal life.

Since the introduction of the Act government has released the *Territory 2030 Strategic Plan* and *Northern Territory Climate Change Policy*. The proposed amendments enhance and reinforce the capacity of the Act to underpin these. The emphasis on preserving healthy landscapes provides for the management of the Territory's natural resources according to the principles of ecologically sustainable development. It is explicit in the *Northern Territory Climate Change Policy* that the Territory will be a low land clearing jurisdiction to protect the health of and the carbon store in our landscapes.

In July 2002 the Productivity Commission released a research paper, *Pastoral Lease and Non-Pastoral Land Use*. The report suggested that that pastoral lease administration processes typically constrain the emergence of non pastoral land use. The then Minister for Lands and Planning directed that the Act be reviewed to ascertain its effectiveness and capacity to provide for the needs of the pastoral industry and stakeholders.

A Steering Committee was formed to oversee the review process that involved extensive consultation with stakeholders, the public and industry. Consultation commenced in 2004 and was completed in 2006. A Recommendation Paper taking into account submissions received from stakeholders, the public and industry was released in June 2006 for comment and discussion. A series of consultative forums were held in major centres to facilitate feedback. Inter-Government workshops and discussions were held to ensure that the views of all areas in the Department of Natural Resources, Environment, the Arts and Sport (NRETAS), Department of Planning and Infrastructure (DPI) and the Department of Regional Development, Primary Industry, Fisheries and Resources (DRDPIFR) were canvassed.

The Steering Committee recommendations provided the basis for the preparation of drafting instructions for the new Act, particularly in the areas of sustainable pastoral land management, conservation management, public access and the sustainable use of pastoral land for non-pastoral purposes. The proposed amendments will underpin sustainable use of pastoral land, promote economic opportunity and provide a platform for the delivery of government rangeland management and conservation policy.

The proposed Amendments provide for:

- Negotiated public access to pastoral land with a commitment to provide an appropriate level of indemnity to the lessee;
- Enhanced provisions for non pastoral use, including conservation purposes;
- Removing land clearing provisions from the Act. Management of native vegetation will be controlled under the proposed new *Native Vegetation Management Act* which is also available for public review and comment;
- Introduction of a permit system for major developments on pastoral land that would result in changes to overland flow and or significant modification of the landscape; and
- More effective compliance and enforcement regime.

Sections of the Act not being amended will be redrafted to provide for a consistent style and use of terms and definitions throughout the Act.

Guide to the Pastoral Land Amendment Act 2011

Part 1 Preliminary Matters

Pastoral Land Act Section	Amendment Bill	
1 Short title	Page 1	Provides the provision to amend the <i>Pastoral Land Act</i> .
2 Commencement	Page 1	Provides for the Administrator to bring the amended Act into effect by <i>Gazette</i> notice.
3 Interpretation	Pages 2-5	Defines terms and words used in the Act. The list has been amended to reflect contemporary legislative terminology and expanded to provide the full suite of definitions required to administer and interpret the Act.
	Section 3A Page 4	Provides a comprehensive definition of Healthy <i>landscapes</i> and <i>landscape health</i> . These terms introduce and reinforce the objects of the Act 4(e) “to ensure, as far as practicable, healthy landscapes are promoted and maintained on pastoral land”. The definition captures the concept of ecological sustainable development. The sustainable management of the Northern Territory’s natural resources and the preservation of biodiversity are objectives of the 2030 Strategic Plan.

Part 2 Object and Duties

Pastoral Land Act Section	Amendment Bill	
4 Objects of Act	Section 4(1) and (2) Page 6	<p>The objects of the Act remain to provide for crown land to be held as a pastoral lease and to ensure that landscape health as far as practical is promoted and maintained. During the consultation phase of the review of the Act both environmentalists and pastoralists supported and promoted the concept of healthy landscapes.</p> <p>4(b) provides a legislative mechanism to facilitate the management of pastoral land for conservation and other non-pastoral purposes that may be approved under the non pastoral use provisions. The use of Crown land held under pastoral tenure for conservation is consistent with government policy to promote off reserve conservation and complements Territory Eco-link.</p>
5 Duty of Minister and Board		No change.
6 General duty of pastoral lessees	Section 6(1) Page 7	<p>Section 6 has been repealed and replaced.</p> <p>The duties have been broken down to require that a pastoral lessee must carry out pastoral activities in accordance with the Act and participate in the monitoring of the land. An additional requirement to regularly monitor and keep feral animals under reasonable control has been added. The general duties of a pastoral lessee are also a condition of the pastoral lease.</p>

Part 3 Administration Division 1 - General

Pastoral Land Act Section	Amendment Bill	
7 Fees		No change.
8 Pastoral Districts		No change.
Ministerial guidelines	Section 8A Page 7	Section 8A provides the minister the power to make guidelines and that he may request the Board to prepare guidelines for consideration. Requiring the Minister to Gazette guidelines is a standard requirement to ensure that the guidelines have effect.
9 Power to enter pastoral land	Section 9 Page 8	Repealed. The authorisations previously provided under this section are now contained in Division 3 of the Bill, "Authorised officer".
10 Delegation by the Minister	Section 9 Page 8	Repealed and replaced, by section 9 of the Bill, Delegation by Minister. The new provision provides for the Minister to delegate his powers or functions to a public sector employee. Certain powers or functions the Minister cannot delegate include: <ul style="list-style-type: none"> • approve maximum holdings; • term of a pastoral lease; • approve a subdivision of pastoral land; • surrender of a lease in exchange for perpetual title; and • consent to transfer a pastoral lease or sub-let part of a pastoral lease.

Part 3 Administration Division 2 - Pastoral Land Board

This section relates to the establishment of the Board appointment of members and administrative arrangements; amendments relate to appointments and operational matters.

Pastoral Land Act Section	Amendment Bill	
11-14		No change.
15 and 16 Alternate Members and Chairman	Section 16 Page 8	Section 15 and 16 replaced by rewritten Section 16. The amendments simplify the process for appointing the Board Chairperson or an Acting Chairperson and abolish the appointment of alternate members.
17 and 18		No change.
19 and 20 Acting Chairman and Disclosure of interest	Section 19 Page 9	Sections 19 and 20 of the Act have been repealed and replaced to provide a simple process to appoint an Acting Chairperson.
21 Meetings of the Board		No change.

Pastoral Land Act Section	Amendment Bill	
22-28		Repealed and replaced.
Disclosure of interest	Section 22 Page 9	Requires Board members to declare any interest they may have in matters before the Board and not take part in any deliberation or decision making process regarding such matters.
Functions of the Board	Section 23 Page 9	The revised functions of the Board are consistent with those of an advisory body. The Board is to provide advice to the Minister about matters arising from this Act and perform functions that are conferred on the Board by this or another Act. The Board will no longer have consent or approval powers. The reference to other Acts provides a basis for the Board to have a role in the assessment of applications to clear native vegetation on pastoral land, which will be lodged under the provisions of the proposed <i>Native Vegetation Management Act</i> .
Powers of the Board	Section 24 Page 10	Confirms the Board has the powers necessary to perform its functions.
Board may gather information	Section 25 Page 10	Provides for the Board to gather the information necessary for it to perform its functions.
Delegation by Board	Section 26 Page 10	The Board retains the ability to delegate its powers and functions to a member or committee of its members. The Board must comply with any written direction of the Minister in exercising its power of delegation.

Part 3 Administration Division 3 - Functions and powers of Board

Pastoral Land Act Section	Amendment Bill	
29 and 30 Functions and powers of Board		Sections relating to the functions and powers of the Board have been removed from Division 3 and incorporated into Division 2 as sections (23), (24), (25) & (26)
Authorised Officers	Section 27 Page 10	This section provides provisions for the CEO to appoint an authorised officer and provides detail of officer's identification requirements and powers.
Authorised Officer	Section 27 Page 10	When appointing an authorised officer the CEO must be satisfied that the appointee has the appropriate qualifications to perform and exercise powers required under the Act.
Identity Cards	Section 28 29 and 30 Page 10-11	Confirms that an officer authorised under this Act must have an identity card and produce it on request. A person who ceases to be an authorised officer must return their identity card within 21 days; failure to do so can result in a penalty to a maximum of 20 penalty points.
Authorised Officer may enter pastoral land	Section 30A Section 30B Section 30C Page 11-12	Establishes that an authorised officer has the power to enter pastoral land for purposes relating to the administration of this Act. An authorised officer may use reasonable force when exercising a power under this Act and it is an offence to obstruct an officer and to do so is liable to a maximum penalty of 200 penalty points.

Part 4 Leases of pastoral land Division 1 - General

Pastoral Land Act Section	Amendment Bill	
31 Leases for pastoral purposes	Section 31(7) Page 12	Section amended to provide that pastoral land may be used for non-pastoral purposes under a valid permit.
32-34		No change.
35(4) enforcement of restrictions on holdings	Section 35(4) Page 12	The section relates to refusing or failure to comply with the requirements of a notice given. The section has been redrafted, to engage in conduct that is a contravention of notice issued under this is a breach of the Act and liable to a maximum penalty of 430 penalty units.
38(h) Conditions of pastoral lease relating to clearing on pastoral land		Section (38h) has been revised. The Board will no longer have the power to approve the clearing of pastoral land; clearing of native vegetation on pastoral land will be managed under native vegetation management legislation. The new 38(h) provision is explicit that a lessee will not conduct any clearing of native vegetation except as provided by the <i>Native Vegetation Management Act</i> or any other law relating to land clearing.
38(m) removal material from a pastoral lease	Section 38(1)(m) Page 13	The amended provision provides that timber; stone, sand gravel or soil may only be removed for pastoral purposes on the land. The Minister responsible for this Act is no longer the consent authority for the removal of material for other purposes.
38(5) reservation in favour of aboriginal inhabitants	Section 38(5) Page 13	Section has been rewritten in contemporary terms and penalty provisions updated.
39 Conditions relating to land management	Section 39 Page 13-14	Sections has been rewritten in part to replace references to Board with Minister, there is no change to intent.
	Section 39(g) Page 14	Requires compliance with an environmental management plan that may form part of a permit (for non pastoral use, major development or any other activity that may require a plan).
40 Breach of conditions		Repealed and replaced by redrafted section (40).
41 Breaches to be referred to Board		Repealed and replaced by redrafted section (40).
Contravention of conditions	Section 40 Page 14-15	The inserted provisions remove reference to the Board and recognise the Minister as the consent authority. The Minister may refer matters to the Board for consideration and request advice. The section provides the administrative procedures to follow in relation to a contravention of lease conditions.
42-49		No change.
50 Continuation on expiration of term of pastoral lease	Section 50(3) Page 15	Inserted to ensure that the person the arrangements are entered into with are the pastoral lessee.
51- 54		No change.

Part 4 Leases of pastoral land Division 2 - Rent

Pastoral Land Act Section	Amendment Bill	
55(1) Rent	Section 3(A) Page 16	Section 3(A) inserted to provide that when declaring a percentage to set the rent the Minister must give regard to the particular circumstances of the district, including rates imposed by a local government body.
56 Payment of rent		No change.
57 Penalty for late payment		Repealed and incorporated into new section 123(H) Penalty Interest.
58-59		No change.

Part 4 Leases of pastoral land Division 3 - Surrender, subdivision, consolidation, conversion

Pastoral Land Act Section	Amendment Bill	
60		No change.
61(9)	Section 61(9) Page 16	The amendment allows 12 months for surrender after approval of a subdivision; it was not possible to meet the previous 3 month timeframe.
62-66		No change.
67 Consent to transfer		Repealed and replaced.
Consent of Minister	Section 67 Page 16-17	The revised provisions reflect contemporary drafting style and explicitly state that any arrangements entered into without the Minister's consent have no effect.
68 Application for consent to transfer &c., of leases, &c.		Repealed and replaced.
Minister's consent for section 67	Section 68 Page 17	Provides the administrative processes for Section 67 applications. The provision prevents the subletting of pastoral land for non-pastoral purpose if a non-pastoral use permit is not in force.
69 - 72		No change.

Part 5 Pastoral land monitoring

Pastoral Land Act Section	Amendment Bill	
73-77		Repealed and replaced.
Monitoring and enforcement	Part 5 Page 18	
Monitoring use of pastoral land	Section 73A Page 18	Provides for the Minister to request, by written notice, information about activities that are being carried out on pastoral land. Failure to comply with the request carries a maximum penalty of 100 points. This section is to ensure that all activities that are carried out on pastoral land are authorised under the provisions of the Act.
Control of feral animals	Section 73 Page 19	Provides for the Minister to declare a feral animal by district, part of a district and a specified pastoral land. This provides for action to be taken to control feral animals on specific areas. Failure to comply with a written notice to control feral animals can result in a maximum penalty of 100 points.
Reference areas	Section 74 Page 19-20	The Minister, not the Board, now has the power to declare a reference area. The penalty provisions are expressed as penalty points.
Monitoring Sites	Section 75 Page 20	Responsibility for establishing and managing monitoring sites has been transferred to the Minister. The Minister may seek input from the Board.
Remedial plans	Section 76 Page 21	Responsibility requiring and approving remedial plans has been transferred to the Minister. The Minister may seek input from the Board.
Lessee may prepare voluntarily prepare remedial plan	Section 77 Page 22	Provides provision and procedures for the lessee to prepare and have approved a remedial plan. The Minister may seek input from the Board.
Responsibility of lessee for degraded or damaged land	Section 78 Page 23	Establishes that a lessee is responsible for rehabilitating land that has been degraded or damaged by the lessee; the liability only extends to what is attributable to actions of the lessee.

Part 6 Access to pastoral land

Pastoral Land Act Section	Amendment Bill	
78-85		Repealed and replaced.
Access to pastoral land by members of the public.	Part 6 Page 23	This section has been rewritten to remove reference to the Board; the provision for the Board to nominate a route to a waterway has been removed and replaced. The Minister may negotiate access and as a last resort declare an access route.
Object of Part 6	Section 79 Page 23	This section in keeping with the objects of the Act provides for regulated access to pastoral land by members of the public for recreational purposes.
Meaning of recreational purpose	Section 80 Page 24	Recognises that fishing other than commercial is a recreational activity that the public may wish to access pastoral land to engage in. It is expected that other forms of recreational activities that the public may wish to access pastoral land for will be identified during the consultation phase. These activities may be prescribed by regulation.
Meaning of accessible areas	Section 81 Page 24	Section provides a basic list of accessible areas and that a reasonable access route is to be provided to those areas.
Minister may enter into agreement for access	Section 82 Page 24-25	The Minister may enter into agreement with pastoral lessees to provide access by members of the public for recreational purposes. The Minister is able to negotiate the terms and conditions of access. Any arrangement entered into is binding and must be complied with by the lessee and members of the public and failure to do is subject to penalties as provided. Negotiations may include indemnity cover and provision of amenities as provided under Section 84.
Minister may declare areas for access	Section 83 Page 26	The provisions provide for the Minister to declare access to pastoral land and provide the circumstances under which a declaration may be made.
Infrastructure and public amenities on pastoral land	Section 84 Page 27	Provides the Minister may establish infrastructure and public amenities and negotiate an agreement regarding establishment and maintenance costs.
Limit of lessee's liability	Section 85 Page 27	Ensures that a lessee is not civilly liable for injury or property damage to persons on pastoral land under the conditions of an agreement.

Part 7 Non pastoral use of pastoral land

Pastoral Land Act Section	Amendment Bill	
Permits for major developments or non-pastoral purposes for pastoral land	Part 7	This part has been significantly rewritten to provide for expanded non-pastoral use and development permits for major developments on pastoral land. Under the revised provisions the use of pastoral land for conservation purposes, subject to the provisions of this Act is a legitimate use of land held under pastoral tenure. Other major changes are permits are no longer limited to 5 years and are issued to the lease not the lessee.
Preliminary matters	Division 1 Page 28	
Objects	Part 86 Page 28	Confirms the objects of the Act provide a permit scheme that allows non-pastoral use while ensuring that pastoral land will be used primarily for pastoral purposes.
Meaning of a major development	Part 87 Page 28	Sets out what constitutes a major development within the context of the Act.
Meaning of permissible non-pastoral purpose	Part 88 Page 28	In part provides “(i) the establishment and maintenance of a conservation management area” is a permissible non-pastoral purpose.
Meaning of a conservation management area	Part 89 Page 29	Allows for all or part of a pastoral land to be reserved under permit solely for promoting and maintaining landscape health. The land does not need to be used for pastoral purpose while a permit is in force.
Offences	Section 90 Page 29	Establishes that it is offence to carry out a major development or to use the land for non-pastoral purpose without consent and that penalties apply for doing so.
Procedures for issuing permit	Division 2	These sections set out the administrative procedure the CEO must comply with to process and issue a permit to carry out a major development or use pastoral land for non-pastoral use. The CEO may refer the matter to the Board for consideration and recommendation.
Application for permit	Section 91 Page 30	
Acceptance of application	Section 91A Page 30	
Notification of application	Section 91B Page 31	
Consideration of application	Section 91C Page 31	
Decision of CEO	Section 91D Section 32	
Operation of permit	Division 3	

Pastoral Land Act Section	Amendment Bill	
When a permit is in force	Section 91E Page 33	Permits may be revoked, suspended or varied by the CEO or the permit holder on application.
Extension of permit	Section 91F Page 33 - 34	
Variation of permit – by CEO	Section 91G Page 34	
Variation of permit	Section 91H Page 35	
Suspension and revocation of permit – by CEO	Section 91J Page 36-37	
Suspension or revocation of permit-by application of lessee	Section 91K Page 37 - 38	
Enforcement provisions for permits	Division 4	
Compliance Direction	Section 91L Page 38	The CEO may issue compliance directions and stop work orders, failure to comply with a direction or stop work is subject to a penalty.
Stop work direction	Section 91M Page 39	
Offences about directions	Section 91N Page 39	
Other matters relating to permits	Division 5	
Minister may impose fees and charges	Section 91P Page 40	Charges or fees may be imposed to cover the cost of processing and administering the application. An annual fee may also be charged based on the unimproved value of the land for the non pastoral purpose.

Part 8 Aboriginal community living areas

Pastoral Land Act Section	Amendment Bill	
Part 8 Aboriginal community living areas		This section is not being amended, changes only relate to terms and definitions.
92 Definitions	Section 92(1) Page 40	Confirms that Chairperson and Deputy Chairperson under this section refer to the review tribunal not the Pastoral land Board.

Part 9 Appeals and review

Pastoral Land Act Section	Amendment Bill	
Part 9 Appeals and review		Part 9 has been repealed and replaced.
Review of Decisions	Part 9 Page 40	
Meaning of a reviewable decision	Section 115 Page 41	A list of reviewable decisions as specified in Schedule 2 is provided at page 53 of the amendment bill.
Meaning of review notice	Section 116 Page 41	Confirms that a review notice must be in writing and outlines what must be contained in the notice.
Application for review, Review tribunal	Section 117 Page 41-42	Establishes that the Planning and Mining Tribunal is to conduct hearing of proceedings for reviews of reviewable decisions. The provisions relating to the establishment of Pastoral Land Appeal Tribunal have been repealed.
118-120		No change.

Part 10 Objections relating to vale of improvements

Pastoral Land Act Section	Amendment Bill	
Part 10 Objections relating to vale of improvements		Section has been amended, Section 121 redrafted.
121 Objections	Section 121 Page 42	Repealed and replaced. Amendment provides that an objection may be lodged if the Minister gives a person a determination notice for an amount of money payable. Note reference to the Valuer – General has been removed in this section.
122 Validity of determination		No change.

Part 11 Miscellaneous

Pastoral Land Act Section	Amendment Bill	
Part 11 Miscellaneous	PART 11	
Criminal liability for offences	Division 1 Page 43	The inserted sections provide the basis for enforcing the provisions of the Act. Prosecution for an offence against a provision of the <i>Pastoral Land Act</i> are based on the <i>Criminal Code</i> . Breaches committed against the Act will be heard in a court of law.
Definitions	Section 123A Page 43	
Liability of representative	Section 123B Page 43	
Conduct of representative	Section 123C Page 43-44	
Criminal liability of partner in partnership	Section 123D Page 45	
Criminal liability of manager of unincorporated association	Section 123E Page 45-46	
Criminal liability of executive officer of body corporate	Section 123F Page 46-47	
Other matters	Division 2	
Registration requirements	Section 123G Page 47-48	Confirms that an approved permit or an approved remedial plan has affect and is attached to the lease not the lessee, the documents must be registered on title as an instrument by the Registrar-General.
Penalty interest	Section 123H Page 48	Confirms penalty interest is accrued for non-payment or late payment of rent or other fees and charges that are due.
Misleading information	Section 123J Page 48-49	Provides penalties for giving misleading information or document to an authorised officer acting in an official capacity.
Continuing offence	Section 123K Page 49-50	A person who has been found guilty of an offence against sections of this Act and continues to commit that offence may have additional penalties applied by a court for each day the offence is committed.
123-125		No change.
127 Compensation and liability		Repealed and replaced. Former provisions for Compensation contained in redrafted section 128A.
Confidentiality of information	Section 127 Page 49-50	Provides penalty provisions for the improper disclosure of information obtained while exercising a power or duty under this Act.
Protection from Liability	Section 128 Page 50	Provides the circumstances that exclude a person, including members of the Board and authorised officers from being liable to prosecution while exercising a power under this Act.

Pastoral Land Act Section	Amendment Bill	
Acquisition on just terms	Section 128A Page 50	Requires that property acquired from a person is on just terms and that a competent court may determine and make orders to ensure that compensation is just.
Approved form	Section 128B Page 51	Allows the CEO to approve forms and publicise them in way of his choosing. This provision is consistent with CEO's consent and approval powers.
Regulations	Section 128C Page 51	Amended to remove reference to Board and provide for penalty points for an offence against a regulation.

Part 12 Savings and transitional

Pastoral Land Act Section	Amendment Bill	
Part 12 Savings and transitional		Replaced.
Transitional matter for Pastoral Land Act 1992	Part 12 Page 51	Heading changed to reflect currency
Sections 129-135		No change.
Transitional matters for Pastoral Land Act 2011	Part 13 Page 52	Provides for the continuation in office of appointed persons, declarations, approvals or other arrangements in force at commencement of the amended Act.
Definitions	Section 136 Page 52	Confirms that the amending Act is the <i>Pastoral Land Amendment Act 2011</i> .
Continuation of appointment – Chairperson of Board	section 137 Page 52	Ensures that Board appointments will remain valid for the term of their current appointment.
Continuation of appointment – Chairperson or Deputy Chairperson of Tribunal	Section 138 Page 52	
Savings – pastoral leases	Section 139 Page 52	Ensures that a lease in force before the commencement of the amending Act is continued.
Savings – feral animal declaration	Section 140 Page 52	Any current feral animal control declarations will be preserved.
Savings – permission under repealed Part 7	Section 141 Page 52	Where the Board has provided written permission for an act or activity to be carried out on pastoral land prior to the repealing of Section 7, those permissions will remain valid until the end of the permitted terms, this will include clearing of pastoral land and non-pastoral use.

Pastoral Land Act Section	Amendment Bill	
Schedule	Schedule 1 Page 53	No change other than title, to accommodate the insertion of additional schedules.
Schedule 2	Reviewable decisions and affected persons Page 53-55	Provides a list of decisions and nominates the affected persons or parties that may apply to have a decision reviewed.
Part 3	Consequential amendments of other Acts Page 55-56	Lists other Acts that will require amendment as a consequence of the amendments to this Act.
Schedule	Pastoral Land Act further amended Page 57-68	Lists changes and terminology used in the Act to provide consistency with contemporary legislative drafting practises.