



Central Land Council

33 Stuart Highway
Alice Springs
Northern Territory

P.O. Box 3321
Alice Springs
N.T. 0871

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Tel: 08 89516233
Fax: 08 89527030
email: prowse@clc.org.au

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Pastoral Land Act Review
Director Pastoral Land Management Branch
Department of Infrastructure, Planning & Environment
PMB 123
Katherine NT 0851

Attention: Scott Wauchope

Dear Sir

Re: Submission in response to the July 2004 Discussion Paper issued by the Northern Territory Government Department of Infrastructure, Planning and Environment in regard to the Review of the Pastoral Land Act 1992

- 1 The overview of the Productivity Commission research paper titled *Pastoral Leases and Non Pastoral Land Use 2002* states "there is the case for a more comprehensive review of the net public benefits from retaining the pastoral lease arrangements".¹
- 2 It is also our submission that extensive analysis of the current use of land held under pastoral lease in the Northern Territory is required prior to any review of the *Pastoral Land Act*.
- 3 This analysis must extend also to examine and identify alternative use of land in the event that subdivision and diversification of the pastoral estate were to take place, and to identify "net public benefit" in a manner that includes the present and future needs of the Aboriginal population of the Northern Territory.
- 4 The situation of the Aboriginal people who have traditional interests on land within the pastoral estate needs particular examination. The Productivity Commission has correctly identified that "changes to existing land uses need to be consistent with native title."² The native title questions are not the only questions that need to be examined in relation to Aboriginal people whose traditional country falls within the pastoral estate. Native title is becoming increasingly tangled, convoluted and complicated. As the

¹ *Pastoral Leases and Non Pastoral Land Use* Productivity Commission 2002, Commission research paper, AusInfo, Canberra Overview p xv

² see Fn 1 Productivity Commission 2002. Overview p xiv

Courts decide more cases, native title becomes a product of the legalities and the procedures required to be followed in native title litigation.

- 5 In Central Australia it is incontrovertible that many Aboriginal people continue to have strong and active cultural and ceremonial ties to the land, despite the land being also used for pastoral purposes. This connection to the country includes those rights recognised under the *Native Title Act* and associated procedures but also, in many instances, goes much further.
- 6 One of the great challenges facing the Aboriginal people of Central Australia is to forge an economically independent future while preserving the connection to land, language and culture which is fundamental to Aboriginality. One of the keys to success in this challenge is access to productive land, and the development of environmentally sound, sustainable and appropriate enterprises to conduct on that land.
- 7 It is important to never forget the contribution that Aboriginal people made to the building of the pastoral industry in the Northern Territory. It is equally important never to forget the unintended consequence of the equal wages case, when the industry unceremoniously dumped its Aboriginal labour force and many people were forced to leave their traditional country.
- 8 Of the issues identified in the Discussion paper, two stand out. First, as identified above, is the issue of non-pastoral use of pastoral land and the possibility of diversification of land use in the pastoral estate. The Discussion paper identifies that somewhere around 46 or 47 percent of the land area of the Northern Territory is covered by pastoral leases.³ This is a vast area of land, encompassing a variety of geographical and climatic conditions. The potential for a variety of land uses apart from pastoral is high in some areas but unlikely in others. If diversification is to take place it must occur in a manner which:
 - is of benefit Aboriginal people of the region;
 - is consistent with the *Native Title Act*;
 - recognises outstanding Aboriginal land needs; and
 - ensures ecological sustainability.
- 9 A related issue is the question of minimum requirements for the grant of a subdivision. A subdivision can lead to increased proposals for non-pastoral uses, increased stocking rates, increased use of improved pastures, increased artificial watering points, and increased infrastructure, such as roads and houses. The Discussion paper quite rightly suggests that there needs to be a mechanism for ensuring that ecological sustainability is a key criteria in the assessment process for a subdivision. However, it is equally important that Aboriginal cultural heritage issues, and Aboriginal community living area issues be taken into account before any subdivision proposal is approved.
- 10 The second issue which is of particular interest to the Central Land Council is the issue of Aboriginal Community Living Areas. The discussion paper notes⁴ that in April 2002 the Central Land Council sought a major review of the Aboriginal Community Living Areas provisions. The Discussion paper also notes that progress has been made with respect to the resolution of certain native title issues permitting the recent grant of a form of freehold title to large number of community living areas. Nevertheless the

³ Northern Territory Government Discussion paper : Review of the Pastoral Land Act 1992 : July 2004 p3

⁴ see footnote 3 Discussion paper p11

problems with Part 8 of the *Pastoral Land Act* as identified by the Central Land Council in April 2002 remain to be addressed, and are in no way diminished by the welcome resolution of native title issues allowing for the resumption of the grant of CLA titles.

- 11 We welcome the opportunity to address many of the other issues identified in the Discussion paper. We note the intention to issue a "key issues" paper in September 2004 and we intend to take the opportunity at that stage to comment in more detail about some of the particular sections of the Act.
- 12 We take this opportunity, however, to raise a couple of additional issues, not because they are more important than any others but simply because they have arisen recently. The first is that the provisions for the clearing of native vegetation on pastoral leases have been brought into focus by the recent application from Alcoota Station, an application which, in addition to seeking approval for the clearing of native vegetation, sought permission for the planting of buffel grass, considered by some, including some officers of the Northern Territory government, to be environmentally unsound. The decision of the Pastoral Land Board to approve the application in the face of what seemed to us to be sound environmental considerations raises a number of questions.
- 13 Second, one of the functions and indeed, priorities, of the Central Land Council pursuant to the *Aboriginal Land Rights (Northern Territory) Act 1976* is protection of sacred sites, both on and off Aboriginal land.⁵ The Discussion paper identifies in paragraph 5.4 concerns relating to the lack of control over major development works on pastoral leases. Similar concerns arise in relation to protection of sacred sites on pastoral leases in the face of major developments such as those identified in paragraph 5.4.
- 14 We look forward to the opportunity to comment further in relation to the review of the *Pastoral Land Act* and associated issues.

Yours sincerely,



David Ross
Director

⁵ *Aboriginal Land Rights (Northern Territory) Act 1976* sections 69 and 23(1)(ba)