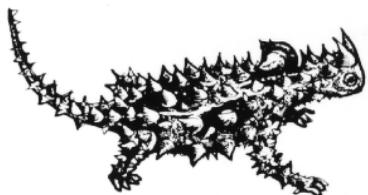


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Pastoral Land Legislation Amendment Bill

The Arid Lands Environment Centre (ALEC) is a Central Australia's own environmental organisation. Based in Alice Springs, ALEC has more than 350 members who support ALEC's vision for 'healthy futures for arid lands and people.' ALEC investigates, informs and advocates for the protection of the environment and works to support ecologically sustainable and resilient communities across Australia's arid lands.

The sustainable management of pastoral land in the Northern Territory is essential to protecting biodiversity and providing equitable economic benefits to all communities who live on or adjacent to the pastoral estate. Considering the substantial proportion of land that is under pastoral lease in the NT, it is vital that they are utilised in a manner that is consistent with the principles of ecological sustainable development and delivers economic benefit for all Territorians, not just the pastoral lessees themselves. We note that these reforms result from extensive advocacy from the Northern Territory Cattlemen's Association with limited consultation and input from environmental groups or the land councils. The scope of the Bill is thus limited in how it manages the interests of various stakeholders of the pastoral estate.

The pastoral estate

As the pastoral estate occupies such a significant portion of land in the NT, the Bill must be able to demonstrate an overall public benefit to all peoples and organisations who have an interest in the use and management of pastoral leases. As it currently exists the Bill does not pay sufficient regard to Aboriginal cultural requirements or environmental interests that are essential to the sustainable and equitable use of pastoral lands. It is important that the amendments are focused on delivering equitable economic benefits to not only the pastoral enterprises but also the NT Government and people who live on pastoral lands.

These amendments predominantly supported by the pastoral industry do not as yet have support from other groups living on and advocating for the sustainable management of pastoral lands. Use of these lands should provide for a holistic net public benefit that delivers sustainable opportunity to all, not just increasing the profitability of individual pastoral enterprises. The reforms are based on the apparent need to provide certainty to pastoralists but that is but one objective of the Act. There is no demonstration that these amendments comply with the objects of the act, which include the sustainable use and management of pastoral land.

In its current form ALEC has several reservations about the implications and methodology of the revised rent system and the operation of non-pastoral uses.

Rent calculation and carrying capacity

The lack of clarity on how carrying capacity will be calculated is problematic. It is important to understand how carrying capacity will be estimated before ALEC is able to support the amendments as it currently stands. Estimated Carrying Capacity (ECC) will presumably include a multitude of environmental factors which should be disclosed and determined by environmental expertise.

At a minimum, the ECC should be reviewed every five years as the carrying capacity is volatile and varies seasonally. Ten years is not an adequate amount of time to capture variations which may expose leases to greater levels of environmental degradation.

By transitioning from unimproved land value towards an ECC the Northern Territory is potentially forgoing revenue from the pastoral estate. If the ECC is calculated separate to the land reserved for non-pastoral uses, then rent will not be paid on those non-pastoral uses. This means there is a potential stream of income that is not returning revenue to the NT Government but is increasing profits for pastoralists. Income produced from the pastoral estate should provide a net public benefit to the people of the NT not just the stations. This public interest economic case has not been made clear. It is recommended that the reforms are comprehensively costed by the Treasury to ensure that the NT Government is not forgoing revenue for the public. Pastoral land is leased by the Crown and therefore the interests flowing from use of the land should flow equally to the people of the NT.

Non-pastoral uses

As the pastoral estate is not freehold, lessees understand they have obligations to manage the land sustainably and ensure the ongoing ability to utilise into the future. These are fundamental objects of the Act. Reform of the pastoral estate is timely considering the range of environmental issues affecting ecological health, such as invasive species, climate change mitigation and general land degradation. However, the current approval system does not provide sufficient and transparent oversight of applications for non-pastoral uses as it remains highly discretionary.

The degree of environmental assessment that a non-pastoral use undergoes should not be entirely determined by the discretion of the lessee and the pastoral board. Lessees do not always possess the necessary capacity or capability to self-assess the impact of a non-pastoral use. Therefore, it is recommended that the amendments should include mandatory referral provisions to the NT EPA to ensure that there is consistent environmental scrutiny of applications. It is necessary to improve consistency and certainty over the management of pastoral lands by reducing the role of discretion in management decisions.

It is likely that these reforms will increase the scale and scope of non-pastoral uses which will have the potential to increase land use stressors. It is vital that these administrative reforms do not exacerbate the cumulative pressures already degrading the pastoral estate.

In addition to the existing responsibilities to manage invasive species the amendments should provide incentives for lessees to engage in conservation measures or carbon sequestration actions. This could occur in the form of a discount on the pastoral rent calculation for actions such as destocking or committing to methane reduction strategies through feed management. Amendments to regulation 31(d) should include conservation projects, carbon farming initiatives and environmental remediation work. The use of pastoral lands for conservation projects or carbon farming is currently a legal ambiguity under the act and regulations. For this reason, it is vital that the amendments explicitly provide for those environmental uses while incentivising lessees to engage in those activities.

Rights and liberties

ALEC submits that the bill does not demonstrate adequate regard to aboriginal tradition. The Act should be able to provide for the “right of Aborigines to follow traditional pursuits on pastoral land”.¹ There is insufficient regard paid in the Bill as there is no mention of partnerships or consultation with Aboriginal corporations or land councils regarding the registering of non-pastoral uses. It is not clear how registering a non-pastoral sub-lease will interact with Native Title Law. Considering that there are public criticisms of the consultation of this Bill it remains to be

¹ *Pastoral Land Act* s.4(c)

seen whether the interests of Native Title holders and Indigenous communities generally have influenced the design of the amendments.

It is important that these amendments regulate the use and management of pastoral land that does not interfere with cultural rights and delivers economic benefit to Aboriginal communities living on those pastoral leases. ALEC submits that consultation with Aboriginal organisations has been inadequate to date. The Bill does not provide an adequate framework for indigenous engagement with pastoral enterprises.

Contemporary management of the pastoral estate

ALEC supports economic opportunity on pastoral leases and recognises the economic contribution of the industry. However, any expansion of such productivity should be delivered equitably and without increasing the rate of environmental degradation caused by grazing. This needs to be an additional guarantee in the Act. These amendments need more than industry support, they need environmental and indigenous approval.

As the Act is intended to provide for the contemporary management of the pastoral estate it should enshrine opportunities for environmental restoration and carbon reduction strategies. Contemporary management of the Pastoral Estate includes responding to environmental stressors and the realities of a warming climate. The current Bill does not provide sufficient incentive or opportunity for lessees to modernise land management practices because it does not provide for environmental or conservation outcomes. Diversification of pastoral uses are supported provided those uses can demonstrate broader public benefits with positive environmental outcomes.

Recommendations

1. Reduce review period of the ECC from ten years to a maximum of five.
2. Include additional non-pastoral uses: conservation zones, carbon farming and environmental rehabilitation works.
3. Include a threshold of impact that will mandate referral of non-pastoral use applications to the NT EPA.
4. Include provisions for a public interest test in the granting of non-pastoral sub-leases.
5. Include the need to provide for ecological sustainable development in the objects of the Act.
6. Mandate the development of holistic, integrated management plans for the granting of non-pastoral sub-leases.