

9 November, 2017

The Secretary  
Economic Policy Scrutiny Committee  
Legislative Assembly of the Northern Territory  
GPO Box 3721, DARWIN NT 0801

Via email: [EPSC@nt.gov.au](mailto:EPSC@nt.gov.au)

**Re: Calls for submission – Pastoral Land Legislation Amendment Bill relating to the proposed changes pastoral lease rent methodology.**

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The Economic Policy Scrutiny Committee is presently reviewing submissions relating to the proposed changes to the NT Pastoral Land Act in relation to the methodology for assessing rents across the NT pastoral estate. In summary, the proposed methodology is moving away from a market based method of assessing rents to a non-market based methodology which reportedly relies upon the 2015 PUCV Estimated Carrying Capacity Assessments (ECC) as a main component of the methodology.

By way of introduction, my name is Frank Peacocke and I am a director of Herron Todd White (Northern Territory) Pty Ltd. I am writing on behalf of my firm as well as the sub contractors it utilised during the contract for the 2015 Pastoral Revaluation for Unimproved Capital Value which was successfully carried out for the Department of Lands Planning and Environment in 2016. I am the Contract Services Manager for this 38 month long contract (which is still ongoing). I supervised the project and undertook the bulk of the valuation work along with several fellow valuers and two agricultural scientists who performed the bulk of the estimated carrying capacity assessment (ECC). This revaluation project was described by the Department as an “unprecedented success”.

Our firm and its subcontractors have reviewed the Bill for the Act to make the amendments to the pastoral lease rent methodology and believe that the Committee should seriously consider our following concerns and either amend the Bill, or not pass the Bill due to these concerns.

Firstly however, we highlight that we have no objections against anyone attempting to figure a better way to determine pastoral rents, just as long as the eventual methodology is fair and equitable.

We have two main areas of concern. One is centred on the proposed methodology and the other is centred on the use of ECC:

**1. Proposed Methodology**

We consider that the proposed methodology cannot deliver pastoral rental values that are relative to each other. Therefore rents cannot be fairly distributed across the pastoral estate. For ease of reference the proposed calculation under Section 55 of the Bill follow:

$$PLR = ECC \times PLRF$$

where:

PLR = the annual pastoral lease rent in dollars

ECC = the estimated carrying capacity expressed in animal equivalents as determined by the Agency under section 54

PLRF = the pastoral lease rent factor declared under subsection (2) or (3)

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(2) The Minister may, before 30 June in a financial year, by Gazette notice, declare the pastoral lease rent factor for a District for the following financial year.

(3) If the Minister does not declare the pastoral lease rent factor for a District under subsection (2) before 30 June in a financial year, the pastoral lease rent factor for the following financial year remains unchanged.

#### **Our Concerns – While there is some quantitative measure there is no qualitative measure**

Firstly, it would appear that the proposed methodology for determining pastoral rental values is based on the NT Government's move away from actual property values to a basis that is heavily reliant on carrying capacity (ECC). The key factors which drive a property's value are not accounted for in the proposed method and it is difficult to see how relativity across the pastoral estate. Placing different rents on different pastoral leases on a fair and equitable basis requires decisions to be made about which properties are superior to others and visa versa. They effectively need to be "ranked" in order from best to worst. The only way to do this, like it or not, is by determining current market values for the properties being ranked. The best evidence comes from the market place. If all 227 pastoral leases in the NT have a market based value assigned then they can be effectively "ranked". It is really no different from establishing a Unit Entitlement schedule for a block of units. The individual units are firstly assigned a market based value which is reflective of quantitative factors (size/square metres) and qualitative measures (location, views etc) and then a scale or rank is applied ie 50 out of 1,000. The body corporate levies are then assigned on this basis. Similar to assigning rents to pastoral leases.

The proposed methodology allows little practical ability for the user (of the methodology) to account for qualitative factors. To a small degree the pastoral lease rent factor for a district (PLRF) may account for variances in value levels between districts, however the significant range in qualitative features between pastoral leases within the same district is often significant and we can see how it would be nearly impossible to account for such differences by a single PLRF adjustment for an entire district. It is all the other factors which impact on values from a relativity perspective that can't be accounted for under the proposed method, such as:

- physical access/access to markets,
- manageability,
- suitability of country type for development to a higher and better use (ie irrigated horticulture, cropping under Diversification Permits or under the proposed introduction of sub lease),
- potential for further pastoral development (does the property have good or bad groundwater?)
- price bracket of the property (history says that this has a significant impact on value rates).

The proposed calculation is oversimplified and does not appear to account for any of the relativity factors mentioned above.

Importantly, the methodology needs to expand on what factors the Minister will be taking into consideration in their adoption of the PLRF? And critically, who is advising the Minister on the selection of the PLRF for each district? If the intention is for a qualified rural property valuer to assist in the selection of the PLRF, then from Herron Todd White's perspective (or any other experienced rural property valuer for that matter) we could not be involved in delivering defensible advice under the proposed methodology.

If the line the NT Government is going to take is to move away from rates/rents that are aligned to the market (market values) to a position that ignores market forces and is heavily reliant to carrying capacity, then this needs to be clearly articulated to leaseholders in the market.

In summary, there are some things you can't just stuff into a simple formula for the sake of simplicity itself.

## 2. Use of ECCs derived from the 2015PUCV process.

### **Our Concerns – The basis of proposed ECCs is not being fully considered by the NT Government and the proposed use of ECCs by the NT Government is inappropriate.**

An essential component of our tender to undertake the 2015 PUCV contract was our insistence that the ECC of the NT pastoral estate would require assessment. This is essentially because such did not exist and any carrying capacity figures that did exist had no evidence of methodology, assumptions or workings to speak of. Knowledge of estimated carrying capacity is a critical component in determining the market value of a pastoral lease, however as described previously, it is only part of the range of factors that influence a property's market value (or market rental value).

At this stage, we understand that the ECCs proposed under the changes to the methodology are the same ECCs established by Herron Todd White (Northern Territory) Pty Ltd and its sub contractors for the specific purpose of the 2015 PUCV contract. We highlight that to date, neither Herron Todd White (Northern Territory) Pty Ltd nor its sub contractors, have ever been formally engaged by the NT Government to comment on the proposed use of the 2015 ECCs in the manner intended, nor whether the ECC is in fact suitable for this purpose.

The ECC assessment formed a key part of Herron Todd White's tender for the 2015 PUCV contract and was specifically designed and implemented for the market based methodology used in that contract. Reliance on the resulting ECCs is still limited exclusively to that project.

Under the terms of the 2015 PUCV contract, Herron Todd White (Northern Territory) Pty Ltd and its sub contractors are not obliged to offer any further advice on the ECCs in relation to the proposed pastoral rent methodology.

It is our opinion that the definition of Estimated Carrying Capacity (under Definitions 3A (1) of the Bill is wrong and misleading. If it is Herron Todd White's 2015 PUCV ECCs that the proposed legislation refers to, then the legislation must also define the basis upon which these ECCs were determined. To simply refer to ECC as "sustainable carrying capacities" should cause alarm to all stakeholders, especially as it suggests that the ECCs imply in law what pastoral lessees can sustainably carry (ie maximum carrying capacity). This is not the basis upon which the ECCs were established under the 2015PUCV contract.

We strongly advise that the NT Government consult with Herron Todd White (Northern Territory) Pty Ltd and its sub contractors about the 2015 PUCV ECCs to ensure an understanding of the basis of the ECC assessment, how the ECCs were utilised in the UCV assessment, and what limitations apply to the reasonable reliance upon the ECCs.

Unless the situation is one where the NT Government contracts an external party to supply an ECC specifically for the NT Government for a specific purpose, then the NT Government needs to undertake its own ECC assessment utilising NT Government resources (such as the DENR pastoral scientists). Only then can the NT Government properly address any concerns or challenges relating to their assessment. Nevertheless, Herron Todd White (Northern Territory) Pty Ltd and its sub contractors are happy to discuss with the relevant stakeholders the reliance on the 2015 PUCV ECCs as the basis for constructing future ECC assessments. Such discussion would naturally consider the intended use of such future ECCs.

We also make note that at the beginning of the 2015PUCV contract, when Herron Todd White requested of the NT DPIF and NT DLRM (and their pastoral rangeland specialists) that they assist in the ECC assessment, the request was flatly refused. We also note that our tender document for the 2015 contract highlighted our intention to request assistance from NT DPIF and NT DLRM in the manner above and this was reportedly a well received feature of our proposal. We eventually negotiated for DLRM to undertake a high level overview of our ECC workings for several districts with which the DLRM were comfortable,

however that was about the extent of it. What was most surprising was when we discovered that despite the initial refusal of assistance, the NT Government has now apparently adopted the very ECC values they had the opportunity to be involved with from the start.

**Our Concerns – the proposed use of ECCs by the NT Government poses significant political risk to Herron Todd White.**

Herron Todd White is already fielding queries from NT pastoral estate stakeholders about the proposed changes to the pastoral rent methodology. Herron Todd White's name is being incorrectly aligned with the architects of the proposed rent methodology changes.

Yours sincerely,



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Certified Practising Valuer  
Director**