



**PASTORAL LAND, CARBON AND CONSERVATION IN THE NORTHERN TERRITORY
OPPORTUNITIES FOR SUSTAINABLE DIVERSIFICATION IN THE PASTORAL ESTATE**

JANUARY 2018

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The Pew Charitable Trusts is an international research and public policy organisation which works with landholders, traditional owners, conservation organisations and policy makers in Australia to promote conservation and sustainable management of Outback landscapes.

It is a central premise of our work that “nature needs people”: key threats to the natural values of Outback Australia like feral animals, invasive weeds and destructive wildfires require active management by people living on the land, and we believe that this work should be valued and supported.

We have been working in the Northern Territory for more than a decade, promoting the environmental, social and economic benefits of conservation land management, investing in Indigenous land management and advocating for increased support for Indigenous rangers and Indigenous Protected Areas.

We welcome the opportunity to comment on the *Pastoral Land Legislation Amendment Bill* 2017. This research note addresses three key issues arising from the proposed amendments:

- (a) opportunities to facilitate sustainable diversification through conservation and carbon farming;
- (b) interaction of sub-leases and non-pastoral use permits with native title rights and interests; and
- (c) management of environmental risks associated with intensification of land use on pastoral lands.

FACILITATING SUSTAINABLE DIVERSIFICATION THROUGH LOW IMPACT LAND USES

Encompassing an area of 59 million hectares, the Northern Territory pastoral estate comprises 45 per cent of the Northern Territory's land area. These landscapes are home to important environmental values, including rare and endangered wildlife, and grazing operations on these lands make an important contribution to the Northern Territory economy and the social fabric of remote communities.

The stated purpose of the *Pastoral Lands Act 1992* is “to provide a form of tenure of Crown land that facilitates the sustainable use of land for pastoral purposes and the economic viability of the pastoral industry” and, *inter alia*, to provide for “the prevention or minimisation of degradation of or other damage to the land and its indigenous plant and animal life” and “the rehabilitation of the land in cases of degradation or other damage” (s.4, *Pastoral Lands Act 1992*).

Consistent with these aims, we recommend that Territory Government include the following low impact, sustainable land uses in the list of prescribed purposes in the *Pastoral Lands Regulations* (r.31):

Conservation land management

Conservation land management presents opportunities to maintain and restore natural values on pastoral lands, and, increasingly, opportunities for diversification of income by pastoral leaseholders. With public and philanthropic support, private land conservation has expanded rapidly over the past decade, with an increasing number of properties managed for a combination of conservation and production purposes.¹

In 2010, the Pew Charitable Trusts partnered with the Australian Government, Indigenous Land Corporation and the Nature Conservancy to purchase Fish River Station, a Northern Territory pastoral property with exceptional conservation values. Today, 25 Indigenous rangers are employed on the station, conducting field research, culling feral animals and controlling destructive late season wildfires.

¹ In Queensland, for example, landholders have voluntarily committed more than 4 million hectares for conservation, with pastoral properties accounting for nearly three quarters of this area: www.ehp.qld.gov.au/ecosystems/nature-refuges.

The addition of conservation land management to the list of prescribed purposes for a sub-lease in the *Pastoral Land Regulations* is supported by the Northern Territory Cattlemen's Association,² Environment Centre of the Northern Territory³ and the Arid Lands Environment Centre.⁴

This amendment would provide new opportunities for pastoral leaseholders to diversify their income, maintain and restore the long-term health and productivity of their land and enter into land management partnerships with traditional owners and conservation organisations.

Recommendation 1: Consistent with the Territory Government's commitment to protecting the Territory's unique natural environment,⁵ we recommend that conservation land management be added to the list of prescribed non-pastoral uses in the *Pastoral Lands Regulations*.

Carbon abatement

Public and private investment in management of land-based carbon stocks is increasing over time. To date, the pastoral sector in the Northern Territory has derived limited income from the carbon sector, with the lion's share of funding under the Australian Government's \$2.55 billion Emissions Reduction Fund (ERF) flowing to other states and territories (**Figure 1**). Out of 728 ERF projects registered nationally, only 28 have been registered in the Northern Territory (26 savannah burning, 1 landfill, 1 energy efficiency).

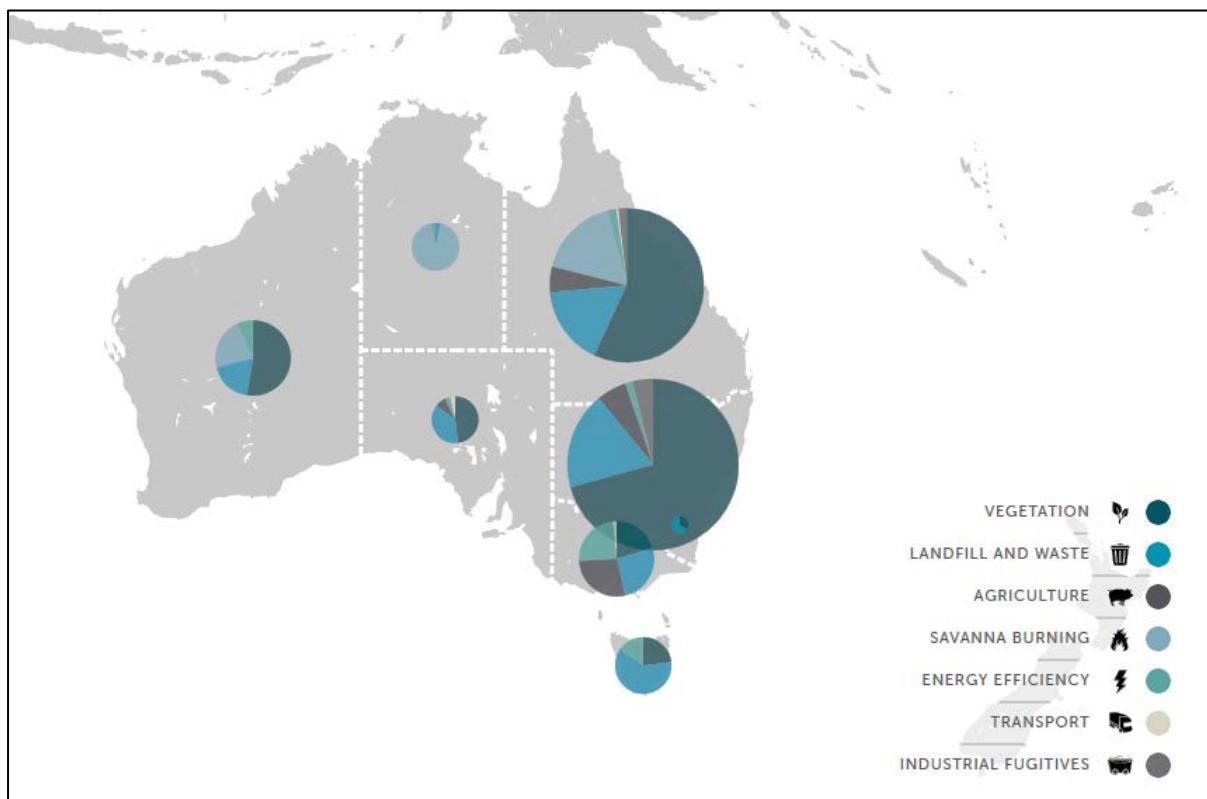


Figure 1. Emission Reduction Fund projects registered in each state and territory, by method.⁶

² Northern Territory Cattlemen's Association (2017) *Submission to the Economic Policy Scrutiny Committee Inquiry into the Pastoral Land Legislation Amendment Bill 2017*.

³ ECNT and Pew Charitable Trusts (2017) *Submission in relation to the Pastoral Land Legislation Amendment Bill 2017*.

⁴ Arid Lands Environment Centre (2017) *Submission on the Pastoral Land Legislation Amendment Bill 2017*.

⁵ Territory Labor (2017) *Healthy Environment, Strong Economy*, Source: www.territorylabor.com.au.

We support the Northern Territory Cattlemen's Association proposal to "include carbon abatement and conservation under non-pastoral use provisions"⁷ in the *Pastoral Land Regulations*, recognising that managing land for carbon abatement (including regeneration of native vegetation) provides opportunities for pastoral leaseholders to diversify their income while managing land condition for the long term.

Permitting the issuing of sub-leases for the purpose of carbon abatement on pastoral land would provide new opportunities for collaboration between pastoral leaseholders and native title holders, including Indigenous ranger teams supported by the federal and territory governments, building on existing savannah burning programs currently being delivered successfully on Indigenous lands in the Territory.

Recommendation 2: To support rehabilitation of pastoral lands, income diversification for pastoral leaseholders and land management opportunities for native title holders, it is recommended that carbon abatement be added to the list of prescribed non-pastoral purposes in the *Pastoral Land Regulations*.

INTERACTION WITH NATIVE TITLE RIGHTS AND INTERESTS

We note that the grant of a sub-lease for non-pastoral purposes (as anticipated by section 68 of the Bill) may affect the rights and interests of native title holders. We encourage the Territory Government to carefully examine this issue in consultation with relevant native title representative bodies.

In particular, we note the Northern Land Council's recommendation that "a legal right be recognised in the *Pastoral Land Act* that will enable the co-existing native title holders on pastoral leases a substantive say and involvement in the grant of any non-pastoral use permit or sub-lease".

While the grant of a permit or sub-lease for a 'primary production activity'⁸ over a non-exclusive pastoral lease would not ordinarily trigger the right to negotiate provisions of the *Native Title Act 1993*, native title holders may be entitled to seek compensation from the Territory Government for extinguishment of their native title rights arising from the grant of the permit or sub-lease.

Recommendation 3: To manage the Territory Government's native title compensation liability and provide an equitable pathway for native title holders to participate in economic development on their traditional lands, we recommend that the *Pastoral Land Act* be amended to require pastoral leaseholders to obtain the consent of relevant native title holders prior to the grant of a non-pastoral use permit or sub-lease.

ENVIRONMENTAL RISKS ASSOCIATED WITH INTENSIFICATION OF LAND USE

The land uses that the Territory Government proposes to add to the list of prescribed non-pastoral purposes – agriculture, horticulture, forestry and aquaculture – may have significant impacts on the environmental values of pastoral lands in the Territory.

⁶ Clean Energy Regulator (2018) Emission Reduction Fund project map, www.cleanenergyregulator.gov.au/maps/Pages/erf-projects/index.html.

⁷ Northern Territory Cattlemen's Association (2017) *Submission to the Economic Policy Scrutiny Committee Inquiry into the Pastoral Land Legislation Amendment Bill 2017*.

⁸ The *Native Title Act 1993* states that a future act consisting of a 'primary production activity' (including, *inter alia*, agriculture, horticulture, forestry and aquaculture) on a non-exclusive pastoral lease is valid and acts which permit such activity are valid. For large pastoral leases (>5,000 hectares) at least half of the area must continue to be used for pastoral purposes: *Native Title Act 1993*, ss.24GA-GC.

Clearing of native vegetation, infrastructure development and increased water extraction associated with these land uses has the potential to modify and degrade pastoral lands in a manner that is inconsistent with the purposes of the *Pastoral Lands Act 1992* (s.4) and the Government's commitment to protect the unique natural environment of the Territory.

We note that the Territory Government has committed to review existing legislation in relation to environmental assessment and approvals, native vegetation management and water resources, and recommend that the Committee carefully consider the environmental risks associated with poorly regulated intensification of land use in pastoral landscapes.

Recommendation 4: To manage environmental risks associated with intensification of land use on pastoral lands, we recommend that the Territory Government: (a) remove agriculture, horticulture, forestry and aquaculture from the proposed list of prescribed purposes, pending completion of current reviews of environmental legislation; or (b) introduce clear and binding provisions in the *Pastoral Land Act* to prevent degradation of pastoral lands associated with intensification of land use.

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