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The Australian Rangeland Society

Title: The Rangelands Reform Program: Implementing a Plan for Economic Diversity in the Western Australian Rangelands

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Abstract:

The impetus for the Rangelands Reform Program arose from two reviews into the pastoral industry held in 2009 – the Southern Rangelands Pastoral Advisory Group’s *A Review of the Economic and Ecological Sustainability of Pastoralism in the Southern Rangelands of Western Australia*, and *A Review of the Process to Permit Diversification on Pastoral Leasehold Land in Western Australia*. The substantive findings of these two reviews were that traditional grazing enterprises continue to experience a long term decline in profitability and the condition of the Rangeland resource upon which they depend. Greater diversity of economic activity and land use offer the most realistic means of sustaining pastoralists and remote communities into the future but require expanded options in the tenure arrangements that govern Crown land in Western Australia. The intention of the Rangelands Reform Program is to establish these expanded tenure options to promote and facilitate economic development and preservation of the rangelands in the long term; streamline government processes and procedures that affect new business development; and identify region-specific economic development opportunities, while maintaining the social fabric and environmental sustainability of the rangelands. The Rangelands Reform Program will also assist with the development of the government’s vision for the rangelands.

A key action is to amend the Western Australian Government’s *Land Administration Act 1997* (LAA) to provide options for new forms of tenure, such as a rangelands lease which will allow for broad scale and varied uses provided that use is consistent with the preservation and ongoing management of the rangelands. Together with the option of a perpetual pastoral lease and new diversification permit provisions, the key benefits will be greater flexibility, security and incentive for the pastoral industry and investment opportunities for new entrants.

Introduction

The Western Australian State Government’s Rangelands Reform Program is a three – year program funded under Royalties for Regions. It aims to address problems arising from restrictive land tenure and red tape in the diversification permit administrative process, and will investigate and address impediments to increased economic development in the rangelands. The program is intended to progress the recommendations of the two reviews into the pastoral industry held in 2009 – the review of the Southern Rangelands Pastoral Advisory Group *A Review of the Economic and Ecological Sustainability of Pastoralism in the Southern Rangelands of Western Australia* (the SRPAG review), chaired by the Hon Wendy Duncan MLC, Member for Mining and Pastoral Region; and a review conducted for the Minister for Agriculture and Food: *A Review of the Process to Permit Diversification on Pastoral Leasehold Land in Western Australia*.

A common theme that emerged from the pastoral industry consultation in the SRPAG review was that despite the challenges faced by pastoral enterprises in the southern rangelands of Western Australia, many pastoral lessees were optimistic about a future in the rangelands

based on the existing pastoral industry and an ability to diversify into other pastoral or non-pastoral activities. The importance of pastoral lessees was acknowledged in references to the knowledge, skills and range of non-pastoral services provided through their presence in the rangelands. The resilience shown by pastoralists indicates the most appropriate way to support sustainable rangelands enterprises in the future is to take steps to liberalise the land tenure arrangements governing land use, encourage diversification and provide incentive to invest. Freeing up Crown land tenure in the rangelands will facilitate diversification and encourage a range of entrepreneurs, not just pastoralists, to invest in a greater range of enterprises in remote regions. This is expected to reduce reliance on grazing industries and hence grazing pressure on the rangelands although it is important to recognise that removing livestock from a lease is not always necessary to regenerate rangelands.

It is important that the State Government develops a vision for the rangelands and for the people who live and work there. The activities being undertaken as part of the Rangelands Reform Program will assist in the development of this vision.

Detailed Description of the Issues

- The LAA and its restrictive aspects
- The existing permit process and its shortcomings
- The issues around the pastoral industry – viability, resource degradation, etc.

Land Tenure Reform

It is proposed that major reform measures will be undertaken through introducing new forms of tenure under the LAA to provide alternative options to the existing term pastoral lease. While the State Government intends to create new lease options, the existing term pastoral lease will remain the default option with pastoral lessees having the choice to convert to the new forms of title. This is important as the key tenure options being proposed will have native title future act implications and many lessees may not be adequately equipped to address such issues.

The options proposed are:

- a rangelands lease;
- a perpetual pastoral lease;
- a new diversification permit option;
- remove the discretion of the Minister for Lands to renew a pastoral lease;
- increase the term of a pastoral lease for lessees with short term leases; and
- transfer diversification permits to a new lessee.

Rangelands Lease: The State Government will amend the LAA to provide for a new form of tenure to be known as a rangelands lease, which will allow for multiple and varied uses of the rangelands, provided that use is broad scale and consistent with preservation and ongoing management of the rangelands as a resource. Amendments to the LAA to create the rangelands lease will create fundamental change in the rangelands. The rangelands lease will free up land use, meeting an increasing demand for more diverse activities to be allowed to be carried out by pastoralists and by new entrants, and creating new economic and social opportunities.

A rangelands lease will provide an alternative form of tenure for any appropriate land use or combination of uses consistent with broad scale use. The permitted uses will be specified in the lease itself and the use will determine the rent payable and conditions which will be set

out in the lease. There will be minimum conditions applicable to all rangelands leases set out in the legislation in relation to fire prevention and management, preservation of land condition and biosecurity measures.

An example of a possible permitted use for a rangelands lease is for multiple uses such as pastoral use, horticulture and agriculture. Other possible uses for a rangelands lease include solely for indigenous use, low-value tourism or for conservation purposes in favour of a private conservation group, although it is important that leases which may be granted for such a purpose must be maintained in a way which effectively manages weeds and feral animals.

The grant of a rangelands lease will be subject to overriding crown land tenure allocation policy which requires appropriate tenure for the proposed use. Where an intensive or high value use is proposed as part of a rangelands lease proposal, then an alternative form of tenure will be utilised for that use such as freehold, conditional purchase (section 80 LAA), or a section 79 LAA exclusive possession lease. In addition, the appropriate future act process will need to be completed under the *Native Title Act (1993) (Cth)* (NTA) before a rangelands lease is granted, most likely through an Indigenous Land Use Agreement between the lessee and the relevant native title representation body. As with pastoral leases, the rangelands lease will include rangelands condition monitoring requirements. These will be carried out in the same manner as that which applies to pastoral leases.

Perpetual Pastoral Lease: Amend the LAA to create a perpetual pastoral lease, to provide another option for existing pastoralists who seek to continue to operate predominantly as pastoralists. This lease will improve security of tenure, thus providing additional incentive to invest in sustainable pastoral enterprises. It is considered imperative that despite some other options being proposed that will improve security of tenure, that the perpetual pastoral lease is also made available in order to provide equity with other states. Once again, the appropriate future act process under the NTA will need to be completed.

New Permit Provision: Amend the LAA to introduce a new permit provision to provide existing pastoralists with options to diversify into the broader range of activities that are available under the NTA and improve economic viability. Forestry will be excluded under this amendment as it requires further consideration of legislative consequential amendments outside the time frame of the Rangelands Reform Program.

Renewal of a Pastoral Lease: An amendment to the renewal of pastoral lease provisions to provide that the Minister is obligated to renew a pastoral lease for the same term if there is no outstanding breach of the lease, the LAA or rangeland condition monitoring requirements. This amendment would be an option for any pastoral lessee and is potentially of benefit to all pastoral lessees.

Increase the Term of a Pastoral Lease: With the renewal of all term pastoral leases in 2015 for their existing term, some pastoral lessees, due to amalgamations and other administrative processes will only be offered shorter leases of around 17-25 years, whereas others will receive leases of up to 50 years. Changes are required to remove the requirement for public offering of a new pastoral lease, to facilitate the grant of a lease for a longer term to the existing lessee upon application. Legal advice indicates that there are future act native title implications where a renewed lease is for a longer term than the existing term.

Transfer of Diversification Permits: Amendments are required to allow for the transfer of a diversification permit to a new lessee if he or she wishes to continue with a diversification activity that existed prior to the transfer. This is another example of providing a mechanism in

the LAA that facilitates ease of transfer of valid economic activities in the rangelands from an outgoing to the new lessee and therefore provides an additional incentive to invest.

Reform Process

The State Government is drafting an amendment bill to create the legislation required to achieve these tenure reforms. The draft bill will be subject to further consultation with key stakeholders, expected to commence during November 2012. Following any changes to the draft bill as a result of the consultation process, the Government will commence the process to introduce the bill to Parliament.

Economic Development

The Rangelands Reform Program is identifying policy settings and strategies conducive to rangelands economic development through the leadership of the Department of Agriculture and Food WA. It will also propose regionally specific responses to conditions affecting the economic viability of traditional pastoral activities and the identified need for extensive rangeland regeneration. Support for new business opportunities such as those based on irrigation precincts for food, fodder and biofuels production (including through the use of groundwater and mine dewatering), carbon offsets and environmental stewardship, tourism, indigenous cultural maintenance and the management of land for conservation and catchment protection will be investigated. It will also identify unintended planning and regulatory obstacles to the creation of rangelands development precincts.

Pastoral Diversification

The Minister for Agriculture and Food initiated the *Review of the Process to Permit Diversification on Pastoral Leasehold Land in Western Australia* to examine procedural improvements, and options to fast-track investment and diversification on pastoral leases.

In summary, the review recommended improvement of the process for applications in three key areas:

- policy development in relation to pastoral diversification needs to be aligned with the process to streamline permit applications;
- ‘front-end’ changes to the permit process such as improving the information available on the Department of Regional Development and Lands website regarding permits and providing more information about diversification that encourages improved applicant planning need be implemented (several of which are already being considered by agencies); and
- attempts by agencies to reach agreement on issues that frequently arise regarding diversification should be resolved as quickly as possible.

The review itself has led to some improvements in the process and relevant agencies working together more effectively to reduce duplication, delays and potential for miscommunication. A Diversification Working Group formed as part of the Rangelands Reform Program has been liaising with the Pastoral Lands Board to further refine the process and resolve outstanding issues, such as what additional information applicants can provide to ensure clarity and to assist administrators more efficiently process applications for permits and a non-indigenous plant species policy.