



Department of Planning,
Lands and Heritage



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Pastoral Lands Board Policy

Pastoral Lease Renewal: PLB Advice to the Minister for Lands

The Pastoral Lands Board acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

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POLICY STATEMENT

The Pastoral Lands Board (PLB) has two broad roles:

1. To administer pastoral leases in accordance with Part 7 of the *Land Administration Act 1997* (LAA).
2. To provide advice to the Minister for Lands (Minister) on policy relating to pastoral land, including ensuring that pastoral leases are managed on an economically viable and ecologically sustainable basis.

The PLB is committed to creating an environment where government and pastoral lessees work cooperatively to enhance productivity and financial viability, while achieving improved land management outcomes. This policy applies this commitment to the PLB's functions in relation to the renewal of pastoral leases.

Section 140 of the LAA outlines the respective roles of the Minister for Lands and the PLB for lease renewals. The PLB's role, set out in section 140(2), is to provide written advice to the Minister on whether the lessee should be offered a renewal of the lease, or a grant of a lease over part of the land under the existing lease. However, the Minister is not bound by any advice provided by the PLB.

Section 140(2) does not provide any clarification or place any limitation on the nature of the advice or the matters the PLB may consider in formulating its advice to the Minister. In the interest of transparency and consistency, this policy aims to clarify which matters the PLB will consider when making its recommendations to the Minister.

For a number of reasons, a key consideration in relation to pastoral lease renewals should be their ongoing ability to continue to support economically viable and environmentally sustainable pastoral businesses. First, this policy intersects with the **Viability and Sustainability of New Standalone Pastoral Leases Policy** (Viability Policy) because one of the options in this section, section 140(3)(c), is for the Minister to

determine that the lessee is to be offered the grant of a lease over part only of the land under the present lease, on specified conditions, and make an offer to the lessee accordingly.

The Viability Policy notes that section 101(5)(a) of the LAA precludes the Minister from granting a standalone pastoral lease unless the PLB is satisfied that the land under the lease will be capable, when fully developed, of carrying sufficient authorised stock to be worked as an economically viable and ecologically sustainable pastoral business.

Second, climate change and/or management practices might, over time, change the carrying capacity of the land. Altered rainfall patterns and associated pasture growth might affect the number and type of stock that can be run. Changes in economic and market conditions may effectively render the land under that lease uneconomic for pastoral purposes. Given the relatively long term of pastoral leases, these changes may mean that a pastoral lease that, when originally granted or renewed, was deemed economically viable, might no longer be viable when it comes up for renewal.

Third, where a lease is jointly managed with another lease as part of a pastoral business unit or a station – which often happens, and frequently with different lease expiry dates – the question of viability may be raised if one of the leases is not renewed or only part of the lease is granted as a new lease. The PLB may take this into account when providing advice to the Minister in respect of lease renewal.

The PLB will consult with Department of Primary Industries and Regional Development (DPIRD) and the Commissioner of Soil and Land Conservation (Commissioner) in respect of these matters, given their expertise.

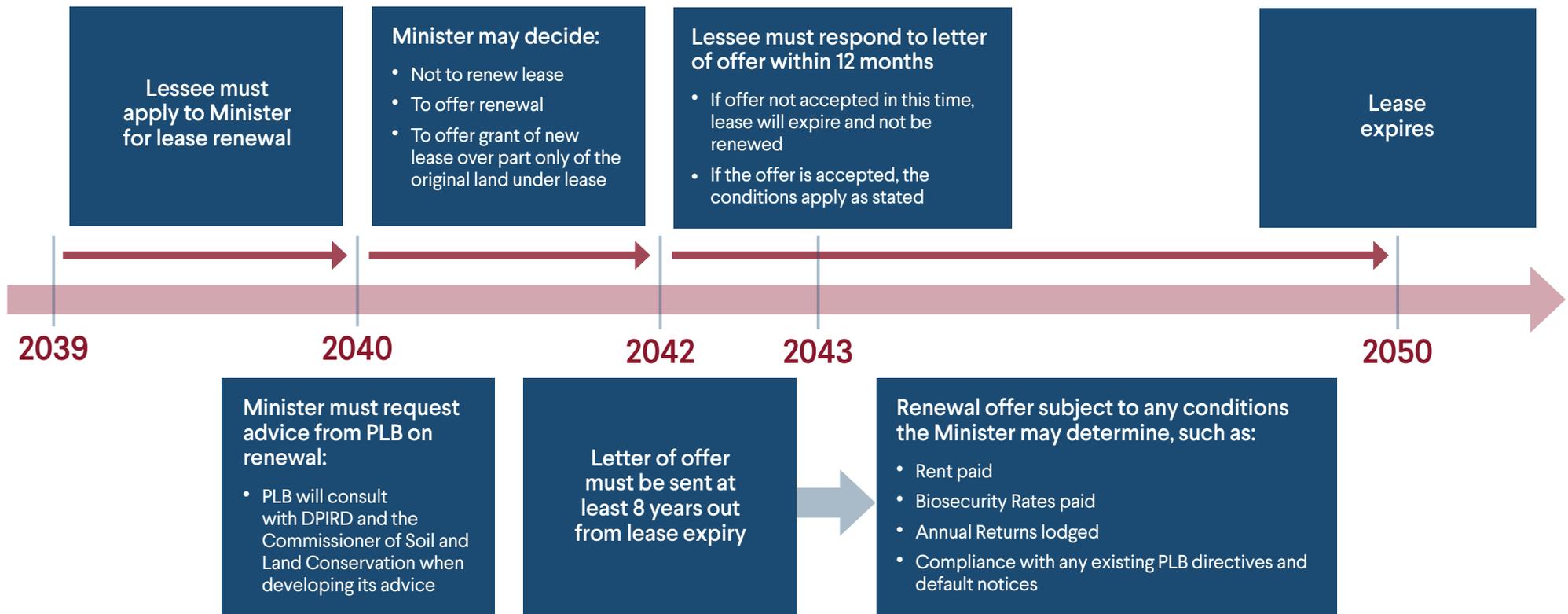
In addition, the PLB may wish to take into account broader considerations in its advice to the Minister.

For instance, the PLB may wish to consider the broader implications for the pastoral estate, including its administration, of renewal as opposed to non-renewal of a lease. A key issue frequently raised by pastoralists and their peak bodies is the loss of “critical mass” for the industry in regions where leases may not be renewed. The argument is that the loss of critical mass would result in increased costs for stock and fodder transport. The PLB may choose to weigh such considerations in its advice to the Minister.

If an offer of renewal is to be made, any conditions of renewal should be clearly defined. Typical conditions should include the lessee continuing to meet their obligations under the lease, to submit annual returns and pay pastoral lease rent and biosecurity rates in a timely manner. In addition, the PLB may recommend that the Minister make it a condition of renewal for compliance with outstanding requirements, such as PLB directives or default notices, in a specified timeframe.

Below is a simplified example of the process for a lease renewal:

PASTORAL LEASE RENEWAL EXAMPLE



However, lessees' general obligations under the LAA in relation to land management and land condition should not be duplicated in conditions of renewal, as the experience in relation to the 2015 renewals indicates that such broad conditions create uncertainty in relation to renewals, resulting in lessees being unable to secure the finance required to manage land condition issues. Any land condition issues that may be identified between the offer of renewal and the renewal date will be subject to the usual compliance mechanisms.

The PLB must respond to the Minister's request for advice in a timely manner. The longer a lessee is waiting for an offer from the Minister, the greater the uncertainty in respect of the pastoral business. There are a range of matters – mortgages, insurance, staffing, stock, and land management priorities – that a lessee must consider when undertaking pastoral business planning, and if the lessee is waiting for the offer to come in, that business planning cannot take place. Further, creditors may place additional pressure on the lessee in a time of uncertainty. Therefore, timeliness of the PLB's advice is essential.

OBJECTIVES

1. To outline the issues upon which the Pastoral Lands Board will provide written advice to the Minister with respect to whether a pastoral lessee (lessee) should be offered a renewal of the pastoral lease (lease).
2. To ensure consistency in the provision of written advice to the Minister in respect of lease renewals.

PRINCIPLES

1. The PLB must have regard to its functions under Part 7 of the LAA when developing written advice for the Minister.
2. The PLB must consider whether a pastoral lease should be renewed and the implications of *not* renewing a lease on the pastoral estate, independent of the compliance and land management record of the current lessee.
3. The PLB must determine whether, in its opinion, the lessee has managed the land under the lease in compliance with the LAA and the terms of the lease.
4. The PLB must respond to the Minister's request for advice as soon as practicable, due to the statutory timeframes that exist in section 140 LAA and the need for lessees to have certainty for business planning purposes.

IMPLEMENTATION GUIDELINES

1. Board to Respond in a Timely Manner

1. The PLB must provide written advice to the Minister in a timely manner. The PLB may receive a request for written advice from the time the lessee is permitted to request a renewal of their pastoral lease. The Minister may specify a timeframe within which the PLB should respond to the request for advice, but the PLB should aim to respond as soon as practicable, and no later than 6 months prior to the 8-year cut off, because the Minister is required to advise the lessee of the following, not later than 8 years before the lease expires:

- a. the lessee is not to be offered a renewal or grant, and notify the lessee accordingly, or
- b. determine that the lessee is to be offered a renewal of the lease, on specified conditions, and make an offer to the lessee accordingly, or
- c. determine that the lessee is to be offered the grant of a lease over part only of the land under the present lease, on specified conditions, and make an offer to the lessee accordingly.

2. Advice to the Minister from the PLB

1. When formulating the written advice for the Minister, the PLB will consider the following as first-order priorities:
 - a. if the lease is a standalone enterprise, whether it remains viable (using the PLB's Viability Policy as a guide), or
 - b. if it is managed jointly with another lease, what would be the effect of renewal or non-renewal on the viability of that other lease
 - c. the broader implications of renewal as opposed to non-renewal on the administration of the pastoral estate more broadly
 - d. the effects of renewal as opposed to non-renewal on land condition outcomes on the land under the lease, and
 - e. whether any renewal and/or lease conditions might be necessary in relation to (a)-(d) above.
2. After considering the factors in 2.1., the PLB will next examine and provide advice to the Minister, where a recommendation to renew or grant a lease over a portion of the current lease has been made, on matters pertaining to the individual lessee, including:
 - a. the lessee's compliance with lease conditions, including rent payment
 - b. the lessee's record in respect of submission of Annual Returns
 - c. the lessee's land management record, including any outstanding PLB determinations and notices
 - d. where relevant, the lessee's compliance with Division 5 permit conditions
 - e. whether any renewal and/or lease conditions might be necessary in relation to (a)-(d) above.
3. In determining the lessee's compliance with lease conditions (2.2.a. above), the PLB will review:
 - a. the lessee's compliance with the *Biosecurity and Agriculture Management Act 2007*, including in respect of payment of rates into the Declared Pest Account
 - b. payment of rent, including whether:
 - i. rental payments are up-to-date
 - ii. in accordance with any payment plans
 - iii. amounts in arrears, if any, and
 - iv. record of payment over the previous 3 years.
4. In determining the lessee's record in respect of submission of Annual Returns (2.2.b. above), the PLB will review:
 - a. the lessee's Annual Return submission record, including:
 - i. timeliness of submissions in respect of the return date
 - ii. completeness of Annual Returns over the past 3 years – have the requirements of the Annual Return been met consistently in accordance with section 113(2)?
 - iii. whether the lessee has been prosecuted for and/or convicted of an offence contained in section 113.
5. In determining whether the lessee should have the lease renewed on land management grounds (2.2.c. above), the PLB will review:
 - a. Rangeland Condition Assessments (RCAs) and other technical reports on land condition performed by DPIRD officers, and/or

- b. reports on site visits and/or other engagement activities performed by Department of Planning, Lands and Heritage (DPLH) staff, and
 - c. rangeland monitoring assessments conducted by lessees as a result of previous PLB directions and notices, and
 - d. advice of the Commissioner with respect to compliance with the *Soil and Land Conservation Act 1945*, or any Soil Conservation Notices issued under that Act, and
 - e. actions taken as agreed with or required by the PLB under the Rangeland Management Compliance Policy.
6. In determining the lessee's compliance with PLB directives and notices (2.2.c. above), the PLB will review:
- a. whether any directives or notices have been issued to the lessee, and if so, how many and for what purpose(s), and
 - b. whether those directives or notices have been complied with and/or resolved.
7. In determining the lessee's compliance with Division 5 permit conditions (2.2.d. above), the PLB will review:
- a. the type(s) of permit issued to the lessee (if any)
 - b. the location of the permit area, and whether the activity is contained to that area
 - c. the intensity of the activity, and whether it still qualifies as a permit activity, or whether that activity is operating beyond the scope of a permit, and
 - d. the specific conditions contained within the permit, and the level of compliance with those conditions.
8. If the PLB recommends to the Minister that the lessee be offered a new lease over a part only of the land under the present lease, or the Minister determines this as a result of the advice provided by the PLB, the Minister must consult the PLB pursuant to section 101(5) of the LAA. In this context, the PLB will provide advice to the Minister in accordance with the PLB's Viability Policy.