



Department of Planning,
Lands and Heritage



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Pastoral Lands Board Policy

Viability and Sustainability of Pastoral Leases

The Department of Planning, Lands and Heritage acknowledges the traditional owners and custodians of land and waterways across Western Australia. The Department is committed to reconciliation to improve outcomes for Aboriginal and Torres Strait Islander peoples and to work together to provide a culturally-safe and inclusive environment.

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POLICY STATEMENT

The Pastoral Lands Board (Board) 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 and the pastoral industry, including ensuring that pastoral leases are managed on an ecologically sustainable basis.

The Board believes that the economic and ecological health of pastoral lands are inextricably connected. Achieving a balance of both is possible, provided the policy and administrative environment is constructed appropriately. In particular, the Board believes that this will require creating an environment where government works cooperatively with pastoral lessees to enhance productivity and financial viability to achieve improved land management outcomes.

This policy applies the above view to the Board's functions in relation to proposed grants of new pastoral leases, subleases, subdivision of pastoral land, boundary adjustments, and other material changes to existing pastoral leases that result in the creation of new, standalone pastoral business units¹. In all cases, the Board's role is to advise the Minister of the economic viability and ecological sustainability of such proposals:

¹ The LAA does not define the term 'pastoral business unit', and applies the term in two distinct manners:

- in section 101(5)(a) and section 134(4)(a) the term is used to denote a single pastoral lease that is operated as a single pastoral business; whereas
- in section 101(5)(c) and section 134(4)(c) the term is used to denote multiple pastoral leases, or multiple parts of pastoral leases, that are operated together as a single pastoral business unit under section 142A of the LAA.

This policy uses the term 'pastoral business unit' to denote land that is operated as a single pastoral business, whether it comprises of a single pastoral lease, or a pastoral business unit approved under section 142A. However, it is noted that in practice additional considerations apply in relation to the approval of pastoral business units under section 142A.

- Section 101(4) of the LAA requires the Minister to consult with the Board in relation to the grant of new pastoral leases, and section 101(5) precludes the Minister from granting a standalone pastoral lease unless the Board 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 unit.
- Section 134(4) of the LAA requires the Minister to seek the Board's advice in relation to applications for transfers and subleases that would result in the division of a pastoral lease into parts with different occupiers. In such cases the Minister is precluded from approving a transfer or sublease unless the Board is satisfied that each part will be capable, when fully developed, of carrying sufficient authorised stock to be worked as an economically viable and ecologically sustainable pastoral business unit.

Section 108(3) of the LAA requires the land under a pastoral lease to be worked as a single pastoral unit, except with the written permission of the Board.

Material Changes:

- Section 141(1) of the LAA enables the Minister to change the boundary between two pastoral leases on the recommendation of the Board.
- Section 81(1) of the LAA the Minister may obtain advice from the Board in relation to viability in cases where the Minister is considering whether or not to accept the surrender of part of a pastoral lease.
- Section 140 of the LAA where a pastoral station consists of multiple leases that are managed as a single business, the Minister when making a decision to renew a constituent lease, is to obtain written advice from the Board in relation to viability, because other constituent lease/s may no longer be viable if the lease in question is not renewed.
- The Board will apply the same considerations of sections 95(f), 101(4), 101(5) and 134(4) of the LAA (above), to sections 81(1), 140 and 141(1) of the LAA.

These provisions should be read in the context of:

- The Board's broader functions in advising the Minister on policy relating to the pastoral industry and the administration of pastoral leases, and ensuring that pastoral leases are managed on an ecologically sustainable basis; and
- The *Pastoral Purposes Framework*, which provides a guide to activities that can be undertaken on Western Australian pastoral leases.

OBJECTIVE

To guide the Board's advice to the Minister on the economic viability and ecological sustainability of proposed grants of new pastoral leases, subleases, transfers, subdivision of pastoral land, boundary adjustments, and other material changes to standalone pastoral business units.

PRINCIPLES

1. The economic viability and ecological sustainable management of pastoral land are interdependent, as improved economic viability provides land managers with the resources required for sustainable ecological management and vice versa.
2. The Board's advice to the Minister will apply the same considerations on the economic viability and ecological sustainability regardless of whether a proposed new standalone pastoral business unit results from the grant of a new lease, a sublease, a subdivision of land, a boundary adjustment, or other material changes to standalone pastoral business units.

IMPLEMENTATION GUIDELINES

1. This policy will form the basis of any advice from the Board to the Minister in relation to the economic viability and ecological sustainability of standalone pastoral business units resulting from:
 - a) Grants of new pastoral leases
 - b) Transfers and subleases that result in the division of pastoral leases into parts with different occupiers
 - c) Proposals for the subdivision of the land under a pastoral lease.
 - e) Boundary adjustments between existing pastoral leases
 - g) Other material changes to existing pastoral leases
2. In relation to points a and c above should the Board advise the Minister against creation of a new standalone pastoral lease, this does not preclude the Board from recommending that the relevant land be amalgamated or become a pastoral business unit with an adjoining pastoral lease under section 142A of the LAA.
3. The Board may request proponents provide a plan for the development and management of the land as part of the assessment process, to inform the Board's advice to the Minister in relation to the economic viability and environmental sustainability of proposed grants of new pastoral leases, subleases, subdivisions of pastoral land, boundary adjustments and other material changes to existing pastoral leases.
4. The Board's advice to the Minister in relation to the economic viability and ecological sustainability of proposed grants of new pastoral leases, subleases, subdivision of pastoral land, boundary adjustments and other material changes to existing pastoral leases, effectively resulting in the creation of new, standalone pastoral business units will be based on its assessment of the following factors:

a) Access:

- i) A pastoral lease or sublease that does not have legal access to a public road cannot be worked as an economically viable and ecologically sustainable standalone pastoral business unit, irrespective of any other factors. Where applicable, a head lessee must document in the agreement with a sublessee the access arrangements to a public road. The Board cannot recommend the creation of a new, standalone pastoral business unit that does not have legal access to a public road.
- ii) New tenure without legal access to a public road cannot be created without the simultaneous creation of a new legal means of access. Any costs associated with the acquisition of such legal access would be borne by the proponent, including any Native Title costs.

b) Potential carrying capacity:

- i) The Board considers that a pastoral lease or sublease with a potential carrying capacity in excess of 4,000 cattle units (cu) is able to carry sufficient authorised stock to be worked as an economically viable and ecologically sustainable standalone pastoral business unit.
- ii) The Board considers that a pastoral lease or sublease with a potential carrying capacity of fewer than 4,000 cu may be able to carry sufficient authorised stock to be worked as an economically viable and ecologically sustainable standalone pastoral business unit, depending on a business case outlining the lease's development and management costs, and potential to increase the number of authorised stock through the use of pastoral permits.

c) Ecological sustainability:

The Board will seek and consider in its advice to the Minister the views of Government agencies responsible for administering:

- the *Biosecurity and Agriculture Management Act 2007*
- the *Environmental Protection Act 1986*
- the *Soil and Land Conservation Act 1945*
- the *Biodiversity Conservation Act 2016*
- any other written law relating to environmental conservation which is applicable to the land under the proposed new lease.

The Board may also consider other legislation such as the *Aboriginal Cultural Heritage Act 1972*, the *Rights in Water and Irrigation Act 1914*, and other separate pieces of subsidiary legislation such as regulations.

d) Development and management costs:

- i) The Board considers that up front development and ongoing management costs for pastoral leases or subleases may be substantially higher if the land is to be developed as a standalone pastoral business unit than if it is to be developed and managed by an adjacent pastoral lessee.
- ii) The Board considers that up front development and ongoing management costs for pastoral leases or subleases will depend on a wide range of factors, including but not limited to:
 - The availability, depth, and quality of stock water.
 - The nature of the land systems that comprise the proposed lease or sublease.
 - Physical size – a physically larger pastoral lease or sublease requires more resources to develop and manage than a smaller pastoral lease.

- Interregional variations – there are significant differences between Western Australia’s pastoral regions that affect the development and management costs of pastoral leases and subleases.
 - Intraregional variations – for example, a pastoral lease that is located further from ports and major regional centres will face higher transportation costs than a pastoral lease or sublease that is located closer to such facilities.
- e) Potential to increase the number of authorised stock under permit:
- i) Some, but not all, permits under sections 118, 119, 120 or 122 of the LAA may have the potential to increase the number of authorised stock that a pastoral lease or sublease may sustainably carry.
 - ii) Permits under sections 121 and 122A of the LAA do not by their nature have the potential to increase the number of authorised stock that a pastoral lease or sublease may sustainably carry. In addition, section 122A of the LAA states prohibited stock, this is defined as any stock that is not authorised stock.
 - iii) The Board may, at its discretion, consider the effect on the economic viability and ecological sustainability of a pastoral lease or sublease resulting from any existing or proposed permits under sections 118, 119, 120 or 122 of the LAA that:
 - have by their nature the potential to increase the number of authorised stock that the pastoral lease or sublease may sustainably carry;
 - where that potential has been demonstrated by the proponent having obtained in principle approval for any and all licences and permissions required to establish and operate the permitted activity arising from the operation of all applicable legal requirements, including relevant planning, environmental and water legislation;
- iv) The Board will not consider the effect on the economic viability and ecological sustainability of a pastoral lease or sublease in relation to:
- the proponent agreeing in writing to obtaining and maintaining all licenses and permissions associated with the operation of the permit to be obtained within a time period determined by the Board and subsequently maintained throughout the life of the lease.
 - any existing or proposed permits under sections 121 or 122A of the LAA
 - any existing or proposed permits under sections 118, 119, 120 or 122 of the LAA that do not increase the number of authorised stock that a pastoral lease may sustainably carry.