

**PASTORAL LAND AMENDMENT BILL 2013
SERIAL NO. 40**

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR LAND RESOURCE MANAGEMENT

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill amends the *Pastoral Land Act's* non-pastoral use provisions.

The purpose of this Bill is to provide the Pastoral Land Board (Board) the necessary powers to issue a non-pastoral use permit for a period of up to 30 years or in the case of a Term Pastoral Lease until the expiry date of the lease. The Bill provides for non-pastoral use permits to be registered against the pastoral lease title as an instrument transferable with the lease. The Bill provides the Board the necessary legislative powers to administer the provisions.

NOTES ON CLAUSES

Clause 1. Short Title

This Act may be cited as the *Pastoral Land Amendment Act 2013*.

Clause 2. Commencement

This clause provides for commencement of the Act on a date fixed by the Administrator and published in the *Gazette*.

Clause 3. Act Amended

Confirms this Act amends the *Pastoral Land Act*.

Clause 4. Section 3 amended

This clause amends Section 3(1) by providing definitions for the meaning of terms inserted in to the Act. *NTA*, means the *Native Title Act 1993* (Cth). A **permit** for the purposes of Section 7 refers to a permit issued under section 85A.

Clause 5. Sections 85A to 85D inserted

85A Permit

Section 85A confirms that on application by a pastoral lessee the Board may grant the pastoral lessee a permit to use all or part of his pastoral land for non-pastoral purposes. To aid pastoral lessees lodge an application and assist in making a determination, the Board may produce guidelines, such guidelines must

be approved by the Minister.

85B Registration

Section 85B confirms that a permit is a registrable instrument for the *Land Title Act* that provides the lessee the right to carry out a non-pastoral use of his pastoral land for the purposes and period specified in the permit. The Board is responsible for ensuring that permits are registered.

85C Effect of permit on dealing with lease

85C this provision ensures that a registered permit is subject to any dealings with the land held under a pastoral lease, including transfer of the permit with the lease at sale.

85D Fee for permit

85D provides the Minister the necessary powers to set fees payable for issuing a permit and fees payable on an annual or other basis for the duration of the permit.

Clause 6 Section 86 amended

The term “permission” has been omitted and replaced with “permit”.

Section 86 (1) as amended confirms that a pastoral lessee is applying to the Board for a permit use all or part of his pastoral land, not the permission of the Board. The change of terminology is in part to provide for a permit to be registered.

Clause 7 Sections 87 to 89 replaced

87 Assessment of application

This section was redrafted to ensure the Board complies with the requirements of the NTA, when considering an application for a non-pastoral use permit where the grant of a permit would be a future act under to which Part 2, Division 3, Subdivision G of the NTA applies. The Board is also required to take into account government policy and potential impact on the environment when making a determination.

88 Decision of the Board

Provides for the Board, after assessment of an application, the power to grant a permit to use pastoral land for a non-pastoral use. Permits are subject to any conditions the Board it considers appropriate and specifies in the permit.

89 Term of permit

This clause was amended to allow the Board to issue a permit for up to thirty years or the case of a term pastoral lease till the expiry of the lease, by nature a term pastoral lease cannot extend beyond twenty five years. Currently the Board can only issue a permit for a maximum of five years and at the end of the five years a new application must be lodged.

89A Extension of term of permit

This new provision provides for pastoral lessee to apply for an extension of a permit for a specified period, if the application is lodged two years prior to the permit expiry date. The provision requires the Board when considering the extension to consider the conduct of the applicant, including compliance with conditions of the permit and any likely impacts on the environment. The Board may extend a permit for the requested period or another period or refuse the application.

The Board is required to lodge any extension notice with the Registrar-General. The permit is extended for the period specified in the notice.

89B Variation of permit-by Board

This new clause provides the Board the necessary powers to vary the conditions of a non-pastoral use permit on its own initiative. Matters the Board are required to consider are the extent the permit holders has complied with conditions of the permit, likely impact on the environment if the permit was varied. Other considerations are the risk of the non-pastoral use becoming the dominant use of the pastoral land and compliance with Part 2, Division 3, subdivision G of the NTA.

89C Variation of permit – by application of lessee

This new provision provides for a lessee with a permit in force to apply to the Board for specific variation of the permit. Before deciding an application the Board must consider the extent to which the applicant has complied with the terms of the permit, likely impacts on the environment and if the variation would result in the non-pastoral use becoming the dominant use contrary to objects of this Act and the NTA. The Board must have any approved variation lodged with the Registrar – General. A variation of permit does not include extending the period of a permit.

89D Suspension of permit – by Board

This new provision provides the Board the authority to suspend a permit on its own initiative. If it considers suspension is appropriate. Matters that may cause the Board to suspend a permit include the extent to which the permit holder has complied with the conditions of the permit, likely impacts on the environment and any special circumstances that may arise to cause the need to suspend a permit, such as an emergency or suspected outbreak of a disease.

If the Board suspends a permit the Board must provide in writing to the permit holder the period of suspension, details of any contravention of the Act and if the contravention can be remedied any actions that are required to remedy the contravention. The intent of this provision is to provide the board options other than revocation of a permit.

89E Revocation of permit – by Board

This clause provides the Board the power to revoke a permit after giving notice to the permit holder detailing the reasons why the permit should be revoked and provide reasonable time for the permit holder to respond. The Board may revoke a permit if the permit holder has failed to comply with the conditions of the permit or the Act. If the contravention cannot be remedied and the permit is revoked the Board must lodged the revocation notice with the Registrar- General, the revocation has effect from the date of registration.

89F Suspension or revocation of permit – by application of lessee

This clause provides for a lessee to apply to the Board to have their permit revoked or suspended. When considering an application to have a permit revoked or suspended the board must have regard to the conduct of the applicant in relation to the permit, any special circumstances that may have emerged and the likely impact on the environment.

The Board determination must be in writing and provide detail for its determination. If the Board revokes the permit the revocation notice must be lodged with the Registrar-General.

89G If permit revoked

Section 89G is a new provision that makes it an offence, if after the revocation of a permit the lessee fails to comply with a reasonable direction of the Board in relation to removing any impact on the land arising from the non-pastoral use activity.

The maximum penalty is 500 penalty units and 10 penalty units for each day the offence continues.

Clause 8 **Act further amended**

Schedule **Pastoral Land Act further amended**

Provision	Amendment
<i>omit</i> <i>insert</i>	
section 90(1) shall	must
Section 90(2)(b) the permission of the board	a permit