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Pastoral Lands Board
Via e-mail

SUBMISSION: PASTORAL LANDS ACT COMPLIANCE FRAMEWORK

Background

Thank you for the opportunity to comment on the Compliance Framework.

Given pastoral leases occupy public land, I believe it is my right and responsibility as a member of the public, to ensure they are appropriately managed.

The following roles and experiences motivate my particular interest in this framework, and sustainable management of lands under pastoral leases:

1. Over my lifetime (I was born in Central Australia and intend to retire here) I have observed the impact of the pastoral industry on the landscape, in particular:

    - The deliberate planting and spread of buffel grass and its inevitable invasion of across the landscape. This invasion has permanently damaged our biodiversity – flowers, plants and animals that were common in my childhood have all but disappeared. The Government has supported this invasion because of the dubious benefits of buffel grass to the pastoral industry

    - The impact of stock in water ways. Many water courses have been irreversibly damaged as a result of erosion and contamination from stock. Swimming holes that, in my youth, were full of water and reeds have silted up and disappeared.

2. Membership of *Landcare Alice Springs* has increased my appreciation of the challenges, opportunities and impacts of good land management.

3. Administration of the group *Letters for the Environment Central Australia* (est. 2020) has highlighted how much activities on pastoral leases concern for our members and the wider community. In 2021 this group published case cards on pastoral land clearing, protection of dingoes and damage to waterholes (Irbmangkara - Running Waters). These are attached.

4. Considering and commenting on pastoral land clearing applications and Notice of Decisions in 2021 left me gravely concerned that:

- The process does not thoroughly consider the risks based on field assessment.

- The Pastoral Lands Board is not equipped to deal with the complex environmental, biodiversity and Aboriginal justice issues associated with land clearing, as expected if it were to fully implement the Pastoral Lands Act.

5. Working as a station hand in the 2000s gave me first-hand experience of how best practice guidance *does not* translate to on-ground good management. I witnessed stock being retained during drought (I had to euthanise countless), overstocking, ineffectual and cruel dingo baiting, cruel treatment of "working dogs", concealment of known occurrences of rare species and sites that were of potential archaeological significance from authorities (not to mention OH&S issues).

   At the time I had no understanding of how to report these issues to regulators, in fact I didn't even know pastoral land regulation existed. (I think all new recruits to stations should be given an NT Government induction package that outlines their rights and responsibilities. They should also have access to a confidential advice hotline).

6. My dog's death from suspected 1080 poisoning in 2018 highlighted how inadequate regulation of 1080, including reporting and response mechanisms for suspected and confirmed non-target 1080 deaths, is in the NT (death from 1080 is confirmed through laboratory testing, and suspected based on the dog's location in the 20 hours prior to death and clinical signs and symptoms).

7. Administration of the *Buffel Information and Action Group* Facebook group (est. 2021). highlights the level of public concern about buffel grass.

My comments are highly critical of:

- The Pastoral Lands Act
- Composition of the Pastoral Lands Board
- The prospects of the compliance framework providing any assurance whatsoever that the Pastoral Lands Board will fully undertake its compliance functions under the Act to a suitable standard for publicly owned land
- This consultation process

Nonetheless, these comments are not intended to be in any way critical of staff applying themselves under direction from the Board. I greatly appreciate the courteous and highly professional advice I receive from officers I have spoken to. It is very clear that staff implementing the substantial field program do so diligently and with a high level of skill.

Context

1. It should be recognised that the Pastoral Lands Act reflects earlier iterations and fails to address:
   - dispossession of Aboriginal Lands
   - the dangers of climate change

- the global value of wild landscapes

2. Much of the Pastoral Estate has been subject to Native Title determinations.

3. Key ecosystems (the tropical savanna and western desert) within the pastoral state are collapsing. Weeds associated with pastoralism, clearing associated with pastoralism and livestock associated with pastoralism have been implicated in these collapses https://theconversation.com/existential-threat-to-our-survival-see-the-19-australian-ecosystems-already-collapsing-154077.

4. The pastoral industry makes a very small economic contribution to the Territory but occupies a huge area (about 45% of the Territory). (Agriculture contributes only $627 million or (2.7%) to a $23 billion economy, of which only a fraction is pastoralism. The economic return for area of land is expected to lowest in Central Australia (https://economy.id.com.au/rda-northern-territory/value-add-by-industry?IndkeyNieir=23000&BMID=20).

5. There are new pressures associated with climate change and biodiversity losses. The pastoral industry needs to change quickly and significantly in response.

6. The direct beneficiaries of the pastoral industry are the owners of the 224 pastoral leases. While day to day cashflows may, at times, be a challenge for some lessees, this cohort are basically all owners of multi-million-dollar leases. There have been many high-profile sales of pastoral leases in recent years. (These make a mockery of the low rent the Territory receives from this land).

7. The pastoral estate is a public asset, the Pastoral Lands Act enshrines that the public have standing and that the Board are "to provide reasonable access for the public across pastoral land to waters and places of public interest".

8. Current reporting gives no assessment of biodiversity, and appears to indicate success by reducing amount of woody vegetation.

9. Current reporting does not consider the condition of waterways, whether waterways have been fenced, or the maintenance of water infrastructure.

10. The act does not prescribe maximum stocking rates.

11. The NT has the opportunity move away from meat production and is uniquely positioned to take advantage of markets seeking novel flavours https://www.theceomagazine.com/lifestyle/food-beverage/global-food-trends

12. Landscape values, which previously could not be monetized, may increasingly become important sources of income (e.g. carbon storage and in-situ biodiversity maintenance).

Given the relatively small number of beneficiaries of pastoral leases and their large consequences, all interests in the land should be recognised. Aspects of compliance should not be cherry picked and the Board should not favour certain interests over others. The

public should not subsidise pastoral lands management and the costs of pastoral activity. These need to be borne by the industry.

Changes to pastoral compliance must be guided by a forward looking, highly skilled, qualified board. I expand on this point in 2 (below).

Overarching comments about the framework

1. There is no audited information on how well compliance is going on which to base my feedback

The Compliance framework should be based upon a third-party review of how the Pastoral Lands Board is performing in its compliance duties and any underlying legislative issues.

This report must include:

1. Whether there are any legal problems associated with current arrangements

2. ALL stakeholders' attitudes towards the effectiveness of compliance and compliance priorities e.g.
   - are Traditional Owners satisfied with the approach?
   - are all lessees satisfied?
   - are the public adequately able to access waters and places of interest?

3. Whether the Act being implemented in a way that meets all expectations of the Act e.g. is biodiversity protected and were economic costs and benefits shared equitably (i.e. and pastoral leases do not unfairly cost some sectors and reward others).

4. Whether conditions on leases been implemented effectively

5. Whether there are there better approaches to maximising the public benefit from the pastoral estate

It is noted that an evidence-based approach conducted by a third-party report was conducted in Western Australia
https://audit.wa.gov.au/reports-and-publications/reports/management-pastoral-lands-western-australia/auditor-generals-overview/

A similar exercise is essential before a new compliance framework is finalised. This is also essential information to enable fully informed commentary on this draft framework.

Recommendation 1

Design of the compliance framework must be overseen and approved by an independent body such as the office of the Auditor General and this available to the public to inform their feedback.

2. The compliance framework must address the full scope of the Pastoral Lands Act

The compliance framework sets out to identify the rules defining how the Board will conduct its compliance business.

A review of the Pastoral Lands Act shows its objects and duties are extensive. Part (2) 4 of the Act lists its objects, including:

4 (b) (ii) prevention minimisation of degradation to the land and its indigenous plant and animal life

4 (c) r the right of Aboriginal persons to follow traditional pursuits on pastoral land

4 (d) to provide reasonable access for the public across pastoral land to waters and places of public interest

4 (e) to provide a procedure to establish Aboriginal community living areas on pastoral land.

To meet the objects the Board's role is wide ranging including:

29 (d) assessing of proposed new pastoral leases over vacant Crown land; and

29 (h) to monitor and administer pastoral lease conditions.

These conditions on a pastoral Lease are extensive given the objects of the Act and that the Act does not limit the power of the Minister to impose such other conditions as the Minister thinks fit including the following:

Section 38 including those who, by Aboriginal tradition, are entitled to use or occupy the leased land are able to:

(3) (d) to enter and be on the leased land;

(3) (e) to take and use the water from the natural waters and springs

(3) (e) (i) to take or kill for food or for ceremonial purposes animals *ferae naturae*; and

(3) (e) (ii) to take for food or for ceremonial purposes vegetable matter growing naturally.

I am deeply concerned about the Board's applying apparent discretion in exercising its functions under the Act to a very narrow subset of issues. This appears to be proposed in the new framework, as stated in section 7.2. of the Policy document:

> *"Whilst the Board has a responsibility to oversee compliance with all aspects of the Act under its jurisdiction, the Board has determined the following issues as requiring priority action:*
>
> *i. The need to address poor or deteriorating land condition (as defined in Section 2.1 of the Compliance Plan);*
>
> *ii. Strict compliance with clearing of native vegetation regulations; and*
>
> *iii. The need to enhance and support strategic control of feral and non-native pest animals within the pastoral estate and surrounds.*

Pastoral leases cover much of the Territory and sustainable management is key to biodiversity outcomes and climate change resilience. Furthermore, these leases occur over areas with socially disadvantaged Aboriginal people, many of whom are recognised Native Title holders over the land and do not share in the benefits the lessees take from the land.

I am strongly opposed to prioritising and thereby neglecting parts of the Act.

Recommendation 2

a) The Act must be applied in full.

b) The objects of the Act described in 4c, 4d and 4e of the Act (described above) should be explicitly mentioned in the "Duty" statement in the compliance strategy. With explicit recognition of each in the subordinate vision, goals and actions.

c) Investigate whether an additional stamp duty on the transfer/sale of pastoral leases would generate more than enough revenue to fund a comprehensive compliance framework.

3. The compliance framework is incoherent and fatally flawed while it is being implemented by a Board with decision making powers that contains members who benefit from increasing the profitability and value of pastoral leases.

The Pastoral Lands Board is not just an advisory group, it has decision making powers, including:

Division 3(29)(h) to monitor and administer the conditions to which pastoral leases are subject;
3(29) (ha) to consider and determine applications for permission to use pastoral land for a non-pastoral purpose
in accordance with Part 7 and Division 3 38 (1) h consent to clear Pastoral land.

How these powers are exercised has a material benefit to the holders of all pastoral leases.

It is problematic for the Act to mandate at least two members of the Board must have pastoral experience. I note the current board has three members on the six-person committee appointed for their pastoral background and includes appointees who actively hold interests in NT pastoral leases. Even if these members were to diligently declare their interests, as a group these individuals stand to benefit from the industry as a whole being managed in favour of the lessees. This is particularly problematic considering only 3 members of the Board are required to for quorum to be met as per the Act 21 (3) (a).

This is very serious given the multiple interests over this public land, and the huge private profits that lessees stand to make by the Board taking a laissez faire approach to their decisions.

These concerns are not only theoretical but material. For example, super profits from hikes in the sale price of pastoral leases - for example Maryfield station was controversially

granted a clearing permit for 4,544 hectares, and a licence to extract 3,392 megalitres of groundwater and subsequently listed the property for sale as a package with another lot for $150 million
https://www.abc.net.au/news/rural/2020-11-23/maryfield-and-limbunya-cattle-stations-for-sale-nt/12904822.

Clearly the industry must have a central advisory role, but this must not be a decision-making role. I consider this change needs to happen immediately for the compliance framework to be valid.

I would also like to point out, that as a stakeholder who has made submissions on clearing applications, it is absolutely disheartening to feel my concerns are unlikely to be a priority for the Board.

The absurdity of this situation is highlighted by the Board being responsible for this review and my criticism of it.

Recommendation 3:

Pastoral industry perspectives must be accessed via an advisory committee NOT by places on the Board.

4. The Board's decision making must be transparent and reported publicly through minuted meetings available at the time decisions are made

The 2019/2020 Annual Report shows a remarkable tendency to approve almost all applications, and deal with many serious issues within a single meeting. This suggests that insufficient attention is being given to what are very complex issues on public land.

Recommendation 4:
Build transparency by publishing minutes of every meeting of the Board.

5. Board composition needs to reflect the full scope of the Act and be based on merit selection

The legislated composition of the Board is:

- Incongruous with the overarching intent of the Act and does not reflect its scope given the objects in section 4 of the Act include biodiversity and indigenous access to land.

- Does not reflect normal principles of diversity.
    - The current committee has 5 males to 1 female
    - Aboriginal representation is grossly insufficient given the multiple interests Aboriginal people hold in its decisions. These include as Traditional Owners,

maintenance of cultural values and practices, arrangements made under Part 8 of the Act, concerns about threats to sacred sites.

The Chair and Board members certainly have some excellent skills for the committee to access, but the lack of members who are qualified to be strong advocates for biodiversity on the Board is alarming.

Recommendation 5:
Board appointments based on a selection criterion designed to give proportionate coverage to those affected by decisions on public land, but are advocates for the land and landowners, not the lessee.

6. Consultation needs to be informed and effective

For this consultation process to be valid it must include all groups affected by the different aspects covered in the Act or with an interest in the outcomes on pastoral land.

Consultation should not just include those who have been prioritised under the Board compliance priorities in 7.2, or the beneficiaries of pastoral leases.

Recommendation 6
Carry out inclusive consultation, conducted in ways which are:

1. culturally appropriate
2. demonstrates participants were given enough information to understand what is in the Act, and how compliance is going
3. allows enough time to give considered feedback

7. Lease conditions need to include maximum stocking rates

I understand the Act does not require maximum stocking rates to be set as a condition of pastoral leases.

Policy/regulation should reflect biodiversity values and the character of public land.

Annual reporting of stock numbers will reduce ambiguity around whether land is being overstocked, allow for unambiguous assessment of compliance with lease conditions and be easily enforceable.

Recommendation 7

a) The requirement for stocking rates to be specified on leases should be made clear in the Act.

8. Fencing and condition of waterways and maintenance of water infrastructure

The condition of wetlands, waterways and groundwater dependent ecosystems needs to be explicitly reported in the compliance framework. These areas are:

- essential to environmental function
- a focus of competition for resources between stock and biodiversity
- frequently associated with sacred sites
- prone to erosion and pollution
- crucial for drought resilience

It is self-evident that stock are being permitted to access and degrade wetlands and waterways. Furthermore, taking water for stock watering is unregulated under the Water Act 1992.

Weeds, including deliberately planted and spread pasture grasses such as buffel grass are invading riparian zones. This invasion destroys riparian vegetation and affects flow.

For pastoral leases to make any claim to sustainability, normal practices of excluding stock from riparian areas, controlling weeds, avoiding contamination, not dewatering springs and groundwater dependent ecosystems needs to be made clear in legislation, supported through compatible lease conditions and specifically dealt with in the compliance framework.

Recommendation 8

Reporting condition of leases should include reporting condition of waterways, condition of fences etc and that water supply infrastructure is in good condition, not interfering with sacred sites etc.

9. Definition of improved pasture includes introducing weeds

Wording suggested introduction of pasture plants (many of which are invasive weeds e.g. gamba and buffel grass) improve the land and this will be reported as successful land management.

While some introduced invasive grass may allow heavier grazing, and therefore improve profits for pastoral lessees in the short term, in the long term they will result in unsustainable land degradation by:

- Displacing native grasses and small plants
- Dominating light and space, reducing opportunities for native vegetation, including trees, to establish.
- Reducing soil health through depleting soil nitrogen and exhausting the mineral pool.
- Increasing hot, widespread fires second to it's high fuel load and rapid regrowth
- Destroying habitat and therefore native wildlife

Though buffel may have reduced soil erosion and dust storms in the short term, the invasion has already got to a point where loss of trees and shrubs is contributing to increased wind shear and soil instability. The dust storms are back.

Recommendation 9
Vegetation should be assessed in terms of native vegetation and biodiversity, not coverage.

10. Estimated carrying capacity should be replaced by maximum stocking rate

I firmly believe this straightforward measure would make identification of non-compliance far more transparent, improve reporting, simplify enforcement and remove potential for poor operators to overstock their land. Clearly there would need to be mechanisms to make sure land owners still manage to the conditions but this is nothing different other regulatory environments e.g. road speed limits.

Recommendation 10
Estimated carrying capacity should be replaced by maximum stocking rate. Maximum rates should be based on unimproved native pasture and adjusted for conditions e.g. drought.

Comments on the four documents

Charter

Page	Issue	Comment
8	Compliance approach	This needs to focus on the outcome that the estate is managed sustainably and protect land condition and all interests are suitable recognised. It is highly disturbing that no reference is made to an outcome in terms of a defined sustainability outcome for the public asset. If the document cannot give specific assurance that these basic outcomes in measurable terms then weasel words like “appropriate” and “proportionate” must be removed. Especially so given that minutes are not published and the board is heavily weighted in favour of the renters. I am concerned that due to the variability in the economic viability of pastoralism in the NT, ‘appropriate’ and ‘proportionate’ measures may be used to support pastoralists to carry on regardless of whether they are compliant or not.
9	Relationships and communication	I am opposed to the Pastoral Lands Board making these determinations about compliance on the grounds that in the 2019/20 report it appears that no enforcement actions were undertaken. The

		Same report details that in the same year 24 clearing permits were approved while none were not approved, and the meeting summaries suggest these were more or less waived through. The language around this in relation to the PLB's role includes statements like the PLB will "correspond" with lessees directly regarding formal compliance matters. In itself this is not the problem but it needs to make explicit to the public that this includes meaningful and effective actions such as seeking legal advice, seek opinions from those aggrieved by pastoral lessee non-compliance issuing notices. This vague language leads me to believe that under the new arrangements the PLB will continue to correspond with its lessee mates and not enforce legislation. This is an unacceptable dereliction of the Board's responsibilities to public land. It is important that the public can search for remedial plans and their effect without having to search each land title individually.
4.7	Annual Reporting	This is insufficient. It is entirely unclear how the Board is undertaking compliance and why there are many instances of land being self-evidently in poor condition but no compliance action. Minutes need to be available for public scrutiny on the PLB's considerations in regard to enforcement actions along with all other deliberations.

Policy

Page	Issue	Comment
1	Duty	The duty should be focused on all objects of the Act. In particular the objects of the Act described in 4c, 4d and 4e need to be explicitly mentioned with explicit recognition of each in the subordinate, vision, goals and actions.
1	Vision	The Strategy and its vision is entirely focused on pastoralists and not the pastoral estate. It states: "the Northern Territory pastoral estate boasts a resilient land resource managed by a robust pastoral industry and championed by a proactive

		Pastoral Land Board".33 It sidelines the need for the pastoral estate to operate sustainably and protect land condition.

Strategy

Page	Issue	Comment
1	Duty	The duty should be focused on all objects of the Act. In particular the objects of the Act described in 4c, 4d and 4e need to be explicitly mentioned with explicit recognition of each in the subordinate, vision, goals and actions.
1	Vision	The Strategy and its vision is entirely focused on pastoralists and not the pastoral estate. It states: "the Northern Territory pastoral estate boasts a resilient land resource managed by a robust pastoral industry and championed by a proactive Pastoral Land Board". It sidelines the need for the pastoral estate to operate sustainably and protect land for a multitude of reasons with multiple beneficiaries and rights holders.

Compliance Plan

Page	Issue	Comment
6.2.3	Feral Animal Control – Dingos are not feral animals and compliance monitoring must ensure they are protected	Feral animal in the pastoral Lands Act means an animal of a kind introduced into Australia since 1787 that is living in a wild state. Widespread lethal control of dingoes does not fit with the duties of the board or the values of ethical practice or accountability. Dingoes must be recognised as native apex predators, with a place in the ecosystem and that away from residential areas wild domestic and hybrid dogs, as opposed to dingoes, are very rare. Independent research shows animal husbandry, not lethal control is the most effective way to reduce calf losses from dingoes. Refer case card (attached).

		The framework needs to protect dingos as apex predators ensuring that a stable pack structure of dingos and best practice (i.e. good animal husbandry and NOT lethal control of dingoes is occurring.
6.2.5	Pastoral land clearing	It should be recognised that spread of pasture grasses is clearing by stealth. Also, drawdown of groundwater tables (to which I'm opposed) as has been allowed, will clear groundwater dependent ecosystems and therefore constitute clearing.

Thank you for considering my comments.

Regards,

Jacqueline Arnold