



PASTORAL
LAND BOARD
NORTHERN TERRITORY

Non-pastoral use guidelines

Pastoral Land Act 1992

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Document control

The following table records the history of any significant changes made to this document. The version number of the document is incremented as follows:

- By 1.0 for significant changes
- By 0.1 for changes made for clarity and reading ease only

Version	Date	Changes made
3.2	03/2024	Section 6 for an application to include an Authority Certificate, or explain to why one has not been provided in the application.
3.1	09/2022	Minor amendments to correct numbering under sections 6, 8 and 9.
3.0	03/2022	Revision content, introduction of requests to extend or vary permits and pastoral purposes guide.
2.0	05/2018	Revision of content, update to introduction, environmental controls, sacred sites requirements and native title.
1.0	12/2016	NT Non-Pastoral Use Guidelines 2016 implemented following amendments to the <i>Pastoral Land Act 1999</i> stating the Board may issue Guidelines.

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1. Purpose

The *Pastoral Land Act 1992* (the Act) provides that the Pastoral Land Board (the Board) may issue guidelines for pastoral lessees in relation to the process of applying for a non-pastoral permit and the determination of an application. The Board has prepared this Non-pastoral use guideline in accordance with the provision of the Act for pastoral lessees, consultants, who prepare non-pastoral use applications on behalf of pastoral lessees, and for the public, who can participate in the non-pastoral use assessment process.

2. Legislation

The Act establishes that a pastoral lease provides a lessee with the right to develop and use pastoral leasehold land for pastoral purposes. The size, scale and nature of a pastoral enterprise that is established on a lease for pastoral purposes will depend on the individual circumstances, and lessees are encouraged to use the Pastoral purposes guide¹ to understand developments, activities and other uses consistent with the definition of pastoral purposes.

Activities that require consent under Part 7 of the Act are not within the conditions of a pastoral lease, do not fall within the definition of pastoral purposes or are declared by the Board through gazette notice not to be a use for pastoral purposes.

Part 7 establishes the legislative requirements for making a non-pastoral use application, the matters that must be considered by the Board and the administrative functions to exhibit, register, vary, extend, suspend or revoke a non-pastoral use permit.

Depending on the non-pastoral activity, there are notifications or other requirements that also apply under the Commonwealth *Native Title Act 1993* (the NTA). It is important to be able to understand the interplay between pastoral purposes under the Act, primary production under the NTA, and other uses which are not for primary production under the NTA.

Primary production activities

Primary production activities include cultivating land, maintaining, breeding or agisting animals, taking or catching fish or shellfish, forest operations, horticultural activities, aquaculture activities and leaving fallow or de-stocking any land in connection with the doing of anything that is a primary production activity.

Most, if not all, pastoral leases in the Territory are subject to native title that co-exists with the pastoral lease. It is not necessary for there to be a determination of native title or the existence of a native title claim for native title to exist.

It is therefore necessary to ensure that consent for non-pastoral use complies with the provisions of the NTA. The NTA permits certain activities on pastoral leases to occur if specified procedural requirements are complied with.

These procedural requirements apply to non-pastoral use activities on a pastoral lease that:

1. fall within the definition of “primary production” activities
2. are associated with or incidental to a primary production activity
3. farm-based tourism activities (provided that the tourism activities do not involve observing cultural activities or cultural works of Aboriginal people).

¹ Department of Environment, Parks and Water Security, 2021. *Pastoral purposes guide*. Northern Territory Government.

To comply with the procedural requirements, the Board must provide notice to any relevant native title representative bodies such as the relevant land council), native title holders and registered native title claimants of the application for a non-pastoral use, and provide an opportunity to comment.

Non-primary production activities

Activities that do not fall within the primary production categories described above under the NTA will generally require an indigenous land use agreement to be finalised before a non-pastoral use application can be made and/or the use can commence.

Reservation of the Crown

Minerals and petroleum products are reservations of the Crown and are administered separately under the *Mineral Titles Act 2010*, *Mining Management Act 2001* and *Petroleum Act 1984*.

3. How to apply

A non-pastoral use application template² is available to assist with the preparation of an application. It includes the minimum information required to make an application. Should the applicant not be the pastoral lessee, there is an owners/lessee authorisation form available, which authorises a person to act for the pastoral lessee during the assessment process.

Step 1. Submit your application

Submit a non-pastoral use application through the Development Applications Online website, <https://www.ntlis.nt.gov.au/planning/>, which is the central location to lodge and track pastoral applications made under the Act. Requests to vary or extend a permit are also made through this website.

To lodge an application, a proponent will be required to log into their account, or if they are a first time user they will need to create an account. A step-by-step lodgement guide is available to assist with lodging an application.

Step 2. Pay the fee

Once an application is accepted for lodgement, the applicant will receive an email notification that payment of the appropriate fee is required. The application fee is required to be paid before the application will be accepted formally and exhibited publically.

Should an invoice be required, contact the Vegetation Assessment Unit via telephone (08) 8999 4454 or email PastoralAssessment.DEPWS@nt.gov.au.

All payments are to be made via the Receiver of Territory Monies (RTM), who will be able to provide details regarding payment options i.e. via EFT, cheque or credit card. Applicants will need to provide RTM with the following details:

Matter:	Station Name – non-pastoral use application
Expenditure Code:	504D2D101 131132
Fee:	Call 8999 4454 for current fee.

The RTM can be contacted via telephone (08) 8999 1606 or email RTMDarwin@nt.gov.au.

The application fee is non-refundable, even if the application is withdrawn or unsuccessful.

² Available at: <https://nt.gov.au/industry/agriculture/farm-management/non-pastoral-use-of-pastoral-land>

4. After an application is lodged

Non-pastoral use applications are usually processed within six months of lodgement, which includes mandatory notification and exhibition requirements. This period can vary depending on:

- the complexity of the application
- the length of exhibition required
- if additional information is required to allow the Board to determine an application.

Public exhibition and notification

Applications are available for public viewing on the Northern Territory Government's Pastoral Notices webpage <https://www.ntlis.nt.gov.au/planning-notices-online/notices/#/pastoral>.

The exhibition and notification period is:

- 28 days for the general public and service authorities
- 90 days for land councils, registered native title bodies corporate and registered native title claimants.

Submissions

During the exhibition period, submissions may be received from:

- the public
- service authorities
- land councils, registered native title bodies corporate and registered native title claimants.

A submission is a written objection or supporting comment about a non-pastoral use application. All valid submissions will be sent to an applicant at the end of the exhibition period. In some cases, an applicant may be asked to provide additional information and be provided with an opportunity to address specific matters raised in a submission.

Government departments and service authorities typically provide comments on non-pastoral use applications to raise with the applicant a requirement under different legislation or to inform the technical assessment of the application in accordance with the Act and these Guidelines. All comments received and technical assessment findings are provided to the applicant and provided with an opportunity to make a written response addressing any issues raised.

5. Meetings/Proceedings of the Board

Once the exhibition period has ended, a non-pastoral use application may be discussed at a meeting of the Board. The Board may invite the applicant and anyone who made a submission on the application to attend and speak to the applicant and/or submission.

6. Decision of the Board

In making a decision on a non-pastoral use application, the Board considers the following sections of the Act:

87(2)(a) - that the Board has complied with the requirements of Part 2, Division 3, Subdivision G of the *Native Title Act 1993*

87(2)(b) - current government policy known to the Board in relation to the type of use proposed

87(2)(c) - the likely effect of the proposed use on the environment and the pastoral enterprise of the pastoral lessee

87(2)(ca) - submissions received by the Board under section 87A within the period specified in the notice given under section 87A(3)(c)

87(2)(d) - any other matters as the Board thinks fit.

Other matters the Board considers relevant include, but are not limited to:

- a. any matters the Minister may have directed the Board to consider
- b. reports of relevant government agencies
- c. the size and location of the proposed area for non-pastoral use
- d. whether pastoral land clearing is required for the intended use and whether a valid permit has been issued or is being considered
- e. whether there is sufficient water for the intended use
- f. whether the soils are suitable for the intended use
- g. presence of threatened species as declared under the *Territory Parks and Wildlife Conservation Act 1976*
- h. impact of the development on regional biodiversity
- i. any environmental issues under the *Environment Protection Act 2019* or the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, which may require referral to the Northern Territory Environment Protection Authority
- j. presence of any known places, archaeological places or Aboriginal or Macassan archaeological places within the meaning of the *Heritage Act 2011*
- k. presence of any sacred sites within the meaning of the *Northern Territory Aboriginal Sacred Sites Act 1989*.

The Board will consider an Authority Certificate as part of a non-pastoral use application or, if one is not available at the time of making the application, an Authority Certificate is to be provided to the Board before it determines a non-pastoral use application. The Board will also consider reasons and supporting material by an applicant for not providing an Authority Certificate.

Once the Board has reviewed the above-mentioned matters and any matters raised at its hearing, it will make a decision to:

- grant a non-pastoral use permit
- alter the proposal and grant a non-pastoral use permit
- refuse to grant a non-pastoral use permit
- defer making a decision to request additional information.

The applicant and submitter will be notified of any decision, and any permits issued will be made available on the non-pastoral use public register (<https://nt.gov.au/industry/agriculture/farm-management/non-pastoral-use-applications-and-permits>) and NR Maps ([Natural Resource Maps NT - NT.GOV.AU](https://nt.gov.au/natural-resource-maps)).

7. Non-pastoral use permit conditions

A non-pastoral use permit is made up of parts, which may include:

- permit number

The permit number is the reference number of a permit and typically begins with NPU for non-pastoral uses. It is annexed with the year it was originally granted and reflects any variations and extensions granted to that permit.

For example, NPU12/01 reflects that the permit was originally granted for a non-pastoral use in 2012 and it was permit 1 of that year; it was later superseded by NPU12/01A, which was granted after either a variation or extension of the period of the permit.

- approved purpose
- term of the permit
- conditions precedent

Some permits include conditions precedent. These are requirements that must be met before works can commence.

- general conditions

General conditions are conditions that must be met during work and for the life of the non-pastoral use permit.

- notes

Notes provide important information that may assist with satisfying a condition of a permit or alerting the permit holder to obligations under other legislation.

- endorsed drawings/plans.

8. Request to extend the period of a permit

The Act allows for the Board to grant 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. A pastoral lessee may apply to extend the term of a permit, provided the application is made at least two years before the permit is due to lapse.

In making a decision on a request to extend the period of a permit, the Board considers the following sections of the Act:

89A(3)(a) - the conduct of the applicant in relation to the operation of the permit (including the extent to which the applicant has complied with the conditions of the permit)

89A(3)(b) - the likely impact on the environment if the term of the permit was extended

89A(3)(c) - any other matter prescribed by regulation.

It may also take into account:

- a. whether there has been a change of government policy – each case would depend on its own facts and circumstances, including whether and how the proposal may undermine or offend the change in government policy
- b. whether the lessee is seeking to bank or stack permits
- c. intervening circumstance as bearing upon grant or refusal
- d. the total elapse of time
- e. whether the time limit originally imposed was adequate
- f. the economic burden imposed on the permit holder
- g. the probability of a permit being issued should a fresh application be made.

Once the Board has reviewed the above-mentioned matters, it will make a decision to:

- extend the term of the permit for the specified period in the application
- extend the term of the permit for a shorter period as decided by the Board
- refuse the application.

The applicant will be notified of any decision, and any permits with extended periods issued will be made available on the non-pastoral use public register (<https://nt.gov.au/industry/agriculture/farm-management/non-pastoral-use-applications-and-permits>).

9. Request to vary a permit

The Act allows for either the Board or a pastoral lessee to vary a permit. A pastoral lessee may apply to vary the permit and any request made must include the reasons supporting the request.

The variation assessment process is similar to the standard process and will likely include public exhibition and notification and a meeting of the Board.

In making a decision on a request to vary a permit, the Board must have regard to the following sections of the Act:

89B(1)(a) - the conduct of the applicant in relation to the operation of the permit (including the extent to which the applicant has complied with the conditions of the permit)

89B(1)(b) - the likely impact on the environment if the variation were made

89B(1)(c) - whether the variation may result in:

- i. a use for a non-pastoral purpose becoming the dominant use of the pastoral land; or
- ii. Part 2, Division 3, subdivision G of the NTA applying in relation to the variation; and

89B(1)(d) - any other matter prescribed by regulation.

Once the Board has reviewed the above-mentioned matters, it will make a decision to:

- vary the permit as specified in the application
- vary the permit as specified in the application, but with specified changes made by the Board
- refuse the application.

The applicant and submitter will be notified of any decision, and any varied permits issued will be made available on the non-pastoral use public register (<https://nt.gov.au/industry/agriculture/farm-management/non-pastoral-use-applications-and-permits>) and NR Maps ([Natural Resource Maps NT - NT.GOV.AU](#)).

10. Registration of permits on title

Permits are granted by way of a registrable instrument against the lease so that the permit runs with the lease and is not personal to the lessee. The Board will lodge with the Registrar-General the required forms and copies of the permit for registration, including any variations or extensions to the original permit.

11. Contact

Please contact the Department of Environment, Parks and Water Security if you have any questions about this guideline or require assistance with a non-pastoral use application.

Telephone: (08) 8999 4454

Email: PastoralAssessment.DEPWS@nt.gov.au