



# **NORTHERN TERRITORY**

# **NON-PASTORAL USE GUIDELINES**

**2016**

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## **INTRODUCTION**

In recognition that higher orders of land use can co-exist with a pastoral enterprise, the Northern Territory Government passed amendments to the *Pastoral Land Act* in 2013 to provide pastoral lease holders with greater opportunities to diversify and develop new income streams.

The legislative amendments give the Pastoral Land Board, as the consent authority, the powers to:

- Approve non-pastoral use permits for a period of up to 30 years, or in the case of a Term Pastoral Lease, until the expiry date of the lease;
- Grant the permit by way of a registerable instrument against the lease so that it runs with the lease and is not personal to the lessee;
- Extend a permit for an additional period if an application is lodged by the permit holder two years prior to the permit expiry date; and
- Suspend, cancel or vary a permit for failure to comply with the conditions attached to the permit or at the request of the permit holder.

These guidelines have been developed by the Pastoral Land Board for pastoral lease holders to outline the process for non-pastoral use permit applications and how these applications are assessed.

## **LEGAL OBLIGATIONS FOR NON-PASTORAL USE**

Section 86 of the *Pastoral Land Amendment Act 2013* states:

*“A pastoral lessee who wishes to use all or part of the land the subject of a pastoral lease for a non-pastoral purpose may, in the form the Board requires, apply to the Board for a permit.”*

The Pastoral Land Board has published these guidelines to outline requirements for lodging applications for non-pastoral use activities on pastoral leases.

The following exemptions do not require a non-pastoral use permit on pastoral leases as they are defined as pastoral purposes under the Act:

*“...agricultural or other non-dominant uses essential to, carried out in conjunction with, or inseparable from, the pastoral enterprise, including the production of agricultural products for use in stock feeding and pastoral based tourist activities such as farm holidays...”*

## **REQUIREMENTS TO OBTAIN A PERMIT**

Projects or activities that propose a total destocking of a pastoral lease will not be granted a non-pastoral use permit.

The following activities on a pastoral lease are some, but not all, which require formal approval from the Pastoral Land Board:

- Tourism activities
  - Tourism enterprises that require the establishment of infrastructure such as accommodation facilities.
- Forestry activities
- Aquaculture activities
- Agriculture activities
  - The production of agricultural products that are not going to be utilised on the pastoral lease but used for off-lease consumption.
- Horticulture activities
- Station Store / Roadhouse catering for passing trade
- Commercial accommodation facilities

A separate permit is required for different activity types. For instance if you wish to run both a tourism venture and carry out a horticultural activity you will be required to submit two different applications addressing each type of non-pastoral use activity.

Non-pastoral activities must not commence until formal approval has been obtained from the Pastoral Land Board. To do this, you must submit an application form which requires the following information:

1. Applicant's Details
2. Pastoral Lease Details
3. Payment of Application Fee
4. Non-Pastoral Use Purpose
5. Land Clearing Requirements
6. Water Requirements

7. Sacred Sites Clearance
8. Native Title
9. Details of Intended Non-Pastoral Use
10. Expected Duration of Non-Pastoral Use
11. Details and Cost Estimates of Infrastructure
12. Description of Site
13. Staging of Development
14. Other Relevant Information

## **LODGING YOUR APPLICATION**

To ensure your application can be processed as quickly as possible, make sure you fill out all the required details in the application form and attach all relevant supporting information including a geo-referenced locality plan.

Payment of the application fee for non-pastoral use applications is required at the time the application is lodged.

Applications should be mailed direct to:

**Executive Officer  
Pastoral Land Board  
PO Box 496  
PALMERSTON NT 0831**

Or emailed to: [pastorallandboard@nt.gov.au](mailto:pastorallandboard@nt.gov.au)

Telephone: (08) 8999 4667

## **PUBLIC NOTIFICATION**

Before making a decision on an application, the Board must give public notification of the application. The notice will be published in a newspaper circulating in the area of the Territory where the pastoral lease is located and on the Board's website. Any person interested in making a written submission to the Board about the application has a 4 week period from the date the notice is first published.

You will receive copies of any public submissions that may be lodged and in some cases you may be asked to provide additional information. You will have the opportunity to address any objections or comments made before the final report is submitted to the Pastoral Land Board.

## **PROCESS FOR CONSULTATION**

Your application will also be referred to relevant government department, agencies and service authorities for comment and technical assessment before it is referred to the Pastoral Land Board for determination. You will be provided copies of these comments. In some cases, you may be asked to provide additional information. You will have an opportunity to address any objections or comments made before the final report is submitted to the Pastoral Land Board.

## **HEARING OF THE PASTORAL LAND BOARD**

In the event that you disagree with any comments from public submissions, government departments, agencies or service authorities, you will be given an opportunity to present to the Pastoral Land Board, in person, your arguments in support of the proposed non-pastoral use activities.

The Pastoral Land Board may decide to hold a public meeting during which time any person who has made a submission or attends the meeting will be given the opportunity to address the Board.

## **ASSESSMENT CRITERIA**

In determining your non-pastoral use application, the Pastoral Land Board will take the following matters into account:

- Your submissions in respect of the proposed non-pastoral use activities;
- Any public submissions made;
- Any comments from relevant government department, agencies and service authorities
- Any matters the Minister may have directed the Board to consider;
- The requirements of Part 2, Division 3, Subdivision G of the *Native Title Act*;
- Current government policy known to the Board in relation to the type of use proposed;
- Reports of relevant government agencies;
- The size and location of the proposed area for non-pastoral use;
- Whether land clearing is required for the intended use and a valid permit has been issued;
- Whether there is sufficient water for the intended use;
- Whether the soils are suitable for the intended use;
- Presence of threatened species as declared under the *Territory Parks and Wildlife Conservation Act*;
- Presence of declared heritage places or archaeological sites within the meaning of the *Heritage Conservation Act*; and
- Presence of any sacred sites within the meaning of the *NT Aboriginal Sacred Sites Act*.

## **NATIVE TITLE**

The Board will ensure the provisions of the *Native Title Act* (NTA) are complied with before approving a permit. The NTA requires that the representatives of the native title holders must be notified if the proposed primary production activity is forest operations, a horticultural activity, an aquacultural activity or other activity as set out in the NTA.

As defined under Section 253 of the NTA:

*forest operations means:*

*(a) the planting or tending, in a plantation or forest, of trees intended for felling; or*

*(b) the felling of such trees.*

*horticulture includes:*

*(a) propagation or maintenance, as well as cultivation; or*

*(b) propagation, maintenance or cultivation of seeds, bulbs, spores or similar things; or*

*(c) propagation, maintenance or cultivation of fungi; or*

*(d) propagation, maintenance or cultivation in environments other than soil, whether natural or artificial.*

As defined in the Northern Territory *Fisheries Act*:

*aquaculture includes the farming, culturing, or breeding of fish or aquatic life for the purposes of trade, business, or research.*

Notification will be the responsibility of the Board. Notification and resolution of any issues that are raised prior to issuing a permit will limit Government's risk, as the landlord, of being liable for the payment of compensation.

Non-pastoral use cannot be granted in circumstances where the entire pastoral lease is to be used for non-pastoral purposes or the non-pastoral activities are the dominant use. A primary object of the *Pastoral Land Act* is "to provide a form of tenure over Crown land that facilitates the sustainable use of the land for pastoral purposes and the economic viability of the pastoral industry".

## **DETERMINATION OF YOUR APPLICATION**

You will receive written notification of the determination by the Board.

If the application is approved you will receive a Non-Pastoral Use Permit which will list any conditions applying to the approval. It is important you comply with all conditions listed on the permit.

Permits are granted by way of a registerable instrument against the lease so that the permit runs with the lease and is not personal to the lessee.

The Pastoral Land Board may suspend, cancel or vary a permit to comply with the conditions attached to the permit, or at the request of the permit holder.

## **TERM OF PERMITS**

Permits for non-pastoral use activities on pastoral leases can be granted for a period of up to 30 years, or in the case of a Term Pastoral Lease, until the expiry of the lease.

The Non-Pastoral Use Permit will state the permit expiry date. If you wish to extend a permit for an additional period, an application must be lodged two years prior to the permit expiry date.

## **FEES AND CHARGES**

An application fee and annual charges will apply to a non-pastoral use permit. A working group, which includes industry representation, has been established to examine the fee structure for non-pastoral use permits.

## **ADDITIONAL INFORMATION AND CONTACTS**

Pastoral Land Board (08) 8999 4667

DENR Rangelands Division (08) 8999 4478