Title
Pastoral Board Guideline - Approval of non-pastoral purposes

Purpose and scope
The objects of the Pastoral Land Management and Conservation Act 1989 (PLMC Act) specify the requirement for pastoral land to be managed to maintain renewable resources and sustain its yield. For the purpose of this guideline, the objective to provide a form of tenure for pastoral purposes that is conducive to the economic viability of the pastoral industry, is of particular relevance.

Pastoral lessees cannot use pastoral land for any purpose other than pastoral purposes, except with the prior approval of the Board, pursuant to section 22(1)(b)(iii) of the PLMC Act. The PLMC Act defines ‘pastoral purposes’ as the pasturing of stock and other ancillary purposes.

This guideline provides a basis for Pastoral Board decision-making to consider approvals for the use of pastoral land for purposes other than pastoral use, pursuant to section 22(6)(c)-(d) and section 22(7) of the PLMC Act).

This guideline does not apply to non-pastoral purposes on pastoral land that are regulated by other Acts, such as easements or mining activities.

Any other non-pastoral activities as permitted by the PLMC Act (such as wind farm development) will be assessed under the relevant section of the Act.

Depending on the nature of the proposal, consideration and approvals may also be required under other legislation and this will be advised to the lessee upon consideration of the proposal, or as a condition to approval for non-pastoral use.

Legislative Context
Pastoral Land Management and Conservation Act 1989
s3(1) - Interpretation -
- pastoral purposes means the pasturing of stock and other ancillary purposes.

s4 Objects - (a) to ensure that all pastoral land in the State is well managed and utilised prudently so that its renewable resources are maintained and its yield sustained; (b) to provide for - (i) the effective monitoring of the condition of pastoral land; and (ii) the prevention of degradation of the land and its indigenous plant and animal life; and (iii) the rehabilitation of the land in cases of damage; and (c) to provide a form of tenure of Crown land for pastoral purposes that is conducive to the economic viability of the pastoral industry; (d) to recognise the right of Aboriginal persons to follow traditional pursuits on pastoral land.

s22 - Conditions of pastoral leases -
Land management conditions providing for – (1)(b)(iii) the lessee’s obligation not to use the land for any purpose other than pastoral purposes, except with the prior approval of the Board.
(6) The Board may, at the request or with the consent of the lessee -
(c) approve the use of land subject to a pastoral lease for a purpose other than pastoral purposes; and
(d) -
(i) set aside from use for pastoral purposes land, or a part of the land, subject to a pastoral lease; and
(ii) approve the use of the pastoral land set aside for the primary purpose of traditional Aboriginal pursuits, conservation purposes or other purposes as specified by the Board.
(7) An approval of the Board under subsection (6) must be in writing and may be subject to conditions.

S37 Cancellation of lease or imposition of fine on breach of conditions
(1) Subject to subsection (2), the Board may -
(a) impose a fine on the lessee under a pastoral lease of an amount not exceeding $10,000; or
(b) cancel a pastoral lease,
if satisfied that a breach of a condition of the lease has occurred.

Native Vegetation Act 1991 (Regulations)
Schedule 1, Part 3, Clause 26 - Grazing of domestic stock:
Clearance of vegetation by grazing domestic stock on land in a manner, and at a rate, that will not cause permanent degradation of the native vegetation on the land where Part 1 clause 5 does not apply because the manner and rate of grazing is not consistent with the manner in which, and the rate at which, the land has previously been grazed by domestic stock of the same species during the previous 10 years, provided that -
(a) guidelines relating to clearance of that kind have been adopted by the Council in accordance with section 25 of the Act; (b) the person undertaking the clearance complies with those guidelines.

Definitions
Pastoral purposes: the pasturing of stock and other ancillary purposes (section 3, PLMC Act).
Ancillary*: Providing necessary support to the primary activities or operation of an organisation, system, etc. In addition to something else, but not as important.
Conservation*: Preservation, protection, or restoration of the natural environment and of wildlife.
Tourism*: The commercial organisation and operation of holidays and visits to places of interest.

General considerations
1. In considering and approving applications to undertake non-pastoral activities on pastoral leases, the Board will act consistently with the objects and other requirements of the PLMC Act.
2. Non-pastoral purposes cannot override the primary pastoral purpose of a pastoral lease as intended by the objects of the PLMC Act.
3. Whether a decision of the Board to approve pastoral land being set aside for a non-pastoral purpose is consistent with the PLMC Act will depend upon the period of time for which pastoral land is to be set aside and the extent of pastoral land to be set aside. The longer the period of time and the greater the area of the pastoral land effected, the less likely a decision to set aside pastoral land for a non-pastoral purpose will be consistent with the PLMC Act.
4. An approved change of purpose may have conditions attached as the Board requires.
5. All applications will be considered on a case-by-case basis.

Criteria
On written application by the lessee to seek approval for a non-pastoral use, the Board will consider the following criteria in assessing the application:
1. The purpose and nature of the non-pastoral use proposal (e.g. conservation, tourism or other purpose).
2. The extent and location of non-pastoral use proposed on the pastoral lease.
3. The length of time for the proposed non-pastoral use.
4. The extent to which the primary pastoral purpose may be excluded.
5. How the proposed non-pastoral use may support, facilitate or be secondary to the primary pastoral purpose on the lease.
6. Any existing approved or non-approved non-pastoral uses on the lease and their implications in regards to consistency with the Act.
7. Changes to existing pastoral infrastructure and any associated impacts.
8. Potential off-lease impacts of the non-pastoral use, including on neighbouring pastoral leases and how these will be managed.
9. Outcomes of consultation conducted by the proponent with lease neighbours and other affected parties.
10. Any relevant unique characteristics of the pastoral lease that may need specific management conditions if the proposal is approved (e.g. existing viability, current management arrangements, Indigenous Protected Areas).
11. Impacts of changed grazing intensity across the lease as a result of the non-pastoral purpose.
12. How the proposal may impact on the lease’s stocking maximum.
13. Outcomes of most recent lease assessment or compliance inspections.
14. History of lease condition compliance by the lessee.
15. Impact of the non-pastoral purpose on the lessee’s ability to comply with the pastoral lease’s conditions now and in the future, including the effect of other legislation (e.g. Native Vegetation Act 1991).
17. Whether the intended future management as prescribed in any associated management plans or similar will be consistent with the PLMC Act.
18. Requirements of any associated agreements or plans the lessee enters into with third parties in relation to the non-pastoral use area (noting that the Board is not bound by the terms of any agreement between a lessee and another party).
19. What changes to lease conditions, if any, will be required as a result of the change to land use purpose.
20. How the land use purpose proposal is consistent with all other objectives of the PLMC Act.

The Board will:
1. Notify the lessee in writing of any decision and/or notify the applicant of any proposed conditions and invite comment.
2. If any conditions to approval are accepted by the lessee the Board may proceed to:
   • Register a notation of the change of purpose on the pastoral lease title.
   • Register any specific lease conditions relating to the change of purpose on the lease title; or any amendments to existing lease conditions.
Roles and responsibilities

Pastoral Board
1. The Board determines applications for non-pastoral purposes pursuant to section 22(6)(c) or (d), and section 22(7).
2. The Board will engage with native title holders and claimants or their representatives as required when considering approval for non-pastoral use, and act consistently with any relevant ILUA.
3. The Board will provide responses regarding applications for non-pastoral purposes in writing to the lessee, including any proposed conditions attached to an approval, and any other approvals required under other legislation.
4. The Board will consult with other agencies, statutory authorities or other interested parties as required in considering applications for non-pastoral purposes on a pastoral lease.

PIRSA
1. PIRSA will provide lessees any required information regarding applications for non-pastoral use, and support the Board in the decision-making process.
2. PIRSA will facilitate required tenure administration (e.g. notation on lease titles).

Lessee
1. Lessees must obtain approval from the Board to use pastoral land for any purpose other than pastoral purposes, as defined in the PLMC Act.
2. Lessees should contact the Pastoral Unit if considering submitting an application for non-pastoral purposes.
3. Lessees must provide the Board with an application in writing, providing information as per this Guideline, to assist the Board in considering the application.
4. Where appropriate, lessees should first consult with lease neighbours and other affected parties such as Native Title holders, regarding the proposed change of purpose before lodging the application; and provide information on the outcomes of consultation within the application to the Board.