



Department of Planning,
Lands and Heritage



June 2024

Pastoral Lands Board Policy

Pastoral Lands Board Permits

Acknowledgment of Country

The Pastoral Lands Board acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

Disclaimer

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Published by the
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Publication date: June 2024
Operational date: June 2024

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POLICY STATEMENT

The Pastoral Lands Board (PLB) supports opportunities for diversification to create prosperous pastoral enterprises. The PLB is committed to creating an environment where government and pastoral lessees (lessees) work cooperatively to enhance productivity and financial viability, while achieving improved land management outcomes. This policy is a further demonstration of that commitment.

The *Land Administration Act 1997* (LAA) provides that lessees must not use land under the pastoral lease for purposes other than pastoral purposes except in accordance with a permit issued by the PLB under Part 7, Division 5, of the LAA. Lessees may apply to the PLB to diversify their activities on the land under the lease via a permit.

Permits can only be issued by the PLB. The PLB sets the conditions of permits, which may include the requirement to pay annual rent for the land within the permit area, in accordance with section 124(1) of the LAA.

This policy operates in tandem with the Annual Rent for Land Under Permit Policy, which outlines the conditions when a variation of, or additional, annual rent is payable for the land where a PLB permit is issued. This policy also complements the Pastoral Purposes Framework and intersects with the Cultivation of Non-Indigenous Plant Species on a Pastoral Lease Policy, and the Viability and Sustainability of Pastoral Leases Policy. All policies are located on the PLB's policy web page at www.wa.gov.au/PLB-Documents.

Types of permits that may be issued by the PLB:

Section of LAA	Description
s.118 Clearing of specified trees or scrub	Permit to clear specified trees or a specified area of scrub or other vegetation to promote the growth of indigenous pasture or otherwise facilitating or improving the working of the lease. The PLB will consult the Commissioner of Soil and Land Conservation before issuing a section 118 LAA permit.
s.119 Sowing of non-indigenous pastures	For the lessee to sow and cultivate specific varieties of non-indigenous pasture on specified land area(s) under the lease. A permit under this section may include a permit for the sale of any produce of the pasture permitted.
s.120 Agricultural uses of land under a lease	For the lessee to use specified land under the lease for crop, fodder, horticultural or other specified kind of agricultural production if the proposed use is reasonably related to the pastoral use of the land.
s.121 Pastoral-based tourism	To allow the lessee to use specific land area(s) for pastoral-based tourist activities of a specified kind if the activities will be purely supplementary to the pastoral use of the lease.
s.122 Non-pastoral use of enclosed and improved land	The use of specified land under the lease for any non-pastoral purposes if the land has been enclosed or improved. An application must specify the use proposed, any facility proposed to be constructed, and the areas of land proposed to be used.
s.122A Keep or sell prohibited stock	To keep prohibited stock on the land under a pastoral lease and/or sell prohibited stock. Prohibited stock are those classes of animals not prescribed as authorised stock in regulation.

The permit application process and timeframes are detailed on the Department of Planning, Lands and Heritage (DPLH) web page at: [Pastoral land permits for other uses](http://www.wa.gov.au/Pastoral-land-permits-for-other-uses) (www.wa.gov.au).

OBJECTIVES

1. To foster improved outcomes on pastoral leases through diversification.
2. To provide clarity on the PLB's approval and issue, transfer, amendment and renewal of Division 5 permits.
3. To outline the requirements for review, suspension and cancellation of Division 5 permits.

PRINCIPLES

1. The PLB supports diversified activity on pastoral leases; it acknowledges that lessees are the primary land managers of the pastoral estate and wants to enable lessees to operate their leases in an economically and ecologically sustainable manner.
2. In deciding whether to approve an application to issue, transfer, amend or renew a permit, the PLB takes into account the environmental, economic, and social impacts of the proposal.
3. The PLB must not issue a permit unless it is satisfied that any requirements in relation to the proposed activity arising from the operation of environmental legislation have been complied with. In accordance with section 117 of the LAA, this includes:
 - a. the *Biodiversity Conservation Act 2016*
 - b. the *Biosecurity and Agriculture Management Act 2007*
 - c. the *Environmental Protection Act 1986*
 - d. the *Soil and Land Conservation Act 1945*
 - e. any other applicable written law relating to environmental conservation.

Alternatively, the PLB may issue a permit subject to a condition that any requirements that apply under written legislation relating to conservation will be complied with before any activity is carried out under the permit.

IMPLEMENTATION GUIDELINES

Application and issue of a permit

Lessees seeking to carry out activities on the lease, other than the primary pastoral purpose being the commercial grazing of authorised stock and certain supplementary uses and ancillary activities, must submit a permit application form and payment of a non-refundable application fee to DPLH.

The timeframe for assessment of the permit application and issuing of an approved permit depends on the:

- a. quality and completeness of the application submitted by the lessee
- b. complexity of the proposal
- c. the PLB's meeting cycle and associated submission deadlines
- d. response timeframes of both the lessee and other parties during the process.

DPLH will refer the permit application to relevant State and local government agencies and any other applicable parties for comment, to ensure that the requirements of relevant legislation have been met, and to assist in assessment of the environmental, ecological, economic and social impacts of the permit proposal. This may include referrals to the:

- a. Department of Primary Industries and Regional Development (DPIRD)
- b. Department of Biodiversity, Conservation and Attractions (DBCA)
- c. Department of Water and Environmental Regulation (DWER)
- d. Department of Energy, Mines, Industry Regulation and Safety (DEMIRS)
- e. Native Title holders or claimants, or representative body

- f. Local Government Authority (LGA)
- g. Any other applicable parties.

Following consultation, DPLH will prepare a proposal for consideration at a PLB meeting.

Upcoming PLB meeting dates are available at www.wa.gov.au/PLB. Please note DPLH requires reasonable lead-in time ahead of the meeting dates to complete the required assessment and consultations. Timeframes in relation to referrals are outside of DPLH's control.

The PLB makes a determination to approve or reject the application based on a range of factors, including the expert advice from relevant State and local government agencies and any other applicable parties.

If the application is approved by the PLB, a written offer of a permit with conditions will be provided to the lessee.

The lessee must accept, sign and return the written offer to DPLH within 60 days in order for the permit to be issued. If the offer is not accepted within the 60 day deadline, the lessee may be asked to resubmit a permit application and a further application fee.

The approved permit activity cannot commence until the permit is issued by the PLB. However, the lessee must obtain any additional statutory or regulatory approvals that may also be required, prior to commencement of the permit activity. This may include, but is not limited to:

- a. where native title rights and interests exist or may exist over the subject area, the grant of a permit will be subject to any future act requirements of the Native Title Act 1993 (Cwth) eg an Indigenous Land Use Agreement.
- b. planning and/or construction approval such as:
 - i. building construction or extension to an existing building
 - ii. creation of a new supplementary business

- iii. preparation of food for the public
- iv. creation of additional waste.
- c. a permit to clear leased land and/or remove native vegetation: if the application involves clearing a portion of land greater than the cumulative clearing amount of five hectares within the financial year, a clearing permit is required from DWER.
- d. a licence for water allocation and/or extraction: a licence from DWER is required to take water, interfere with bed and banks of a watercourse, or construct a well.

Lessees should contact their relevant local government authority (Shire/Council), DWER or other relevant State, local or Commonwealth government agencies to determine necessary requirements prior to commencing the permit activity. If a lessee commences activity without the required approvals, they should be aware they may incur substantial penalties under the LAA and any other relevant legislation.

On issue of a permit that includes a condition that permit rent will be payable, a permit rent determination will be requested from the Valuer-General for the land subject to the permit. The permit rent commencement date will be specified in the conditions, or when the lessee is notified of the Valuer General's assessment of the permit rent, whichever is the later. The permit rent will be payable upon issue of an invoice by DPLH.

Permit rent will be determined by the Valuer-General at times requested by the Minister for Lands (Minister), at intervals of not less than one year and not more than five years. Between Valuer-General determinations, the Minister will adjust permit rent annually by the rate of change in the Consumer Price Index over the preceding year. For more information on permit rent, please see the Pastoral Lease and Permit Rent Determinations Guideline and the Annual Rent for Land Under Permit Policy on the [PLB's policy web page](#).

If a lessee is unable to proceed with the permit activity due to factors beyond their control following notification of the PLB's approval, they may request a deferral to the issue of the permit. The PLB may, at its discretion, provide that its approval to the issuing of a permit is to remain valid for up to 12 months from the date of notification to the lessee.

The lessee is required to provide information about permit activities in the Annual Return of Livestock and Improvements.

Transfer of a permit

A permit may be transferred if the Minister approves the transfer of a lessee's interest in a pastoral lease to another person. The PLB must transfer a permit if the following applies:

- a. the outgoing lessee is not in breach of any condition of the permit; and
- b. the incoming lessee has written to the PLB to request transfer of the permit; and
- c. the incoming lessee has submitted payment of a non-refundable fee to DPLH.

The terms and conditions of a transferred permit will remain the same, including the requirement to obtain and comply with all authorisations required to use the designated area for the permit activity.

If the outgoing lessee is in breach of any condition of the permit, the PLB may issue a new permit, rather than transfer the existing permit. The PLB may require the incoming lessee to submit an application form and payment of a non-refundable fee to DPLH to commence this process.

The permit transfer is effective from the date of transfer of the lease, ensuring continuity of activities.

Amendment of a permit

The PLB may amend the terms and conditions of a permit, with the consent of the lessee. To apply for amendments for a permit, including additional species, activities or changes to the permit area, a lessee must submit a permit amendment form and payment of a non-refundable fee to DPLH.

The PLB will make a determination to approve or reject the amendment based on similar considerations as the approval and issue of a permit, including expert advice from relevant State and local government agencies and any other applicable parties, and the results of any permit reviews. The lessee may be required to seek additional statutory and regulatory approvals.

If the application is approved by the PLB, a written offer of a revised permit with conditions will be provided to the lessee. The lessee must accept, sign and return the written offer to DPLH within 60 days in order for the amended permit to be issued. The additional activities cannot commence until the amended permit is issued.

Amendments to a permit may impact the annual permit rent and may warrant an updated permit rent determination from the Valuer-General.

Renewal of a permit

A lessee may make an application to renew a permit to the PLB (via DPLH), in writing, not more than 12 months and not less than 6 months before the expiry date of the permit and submit a non-refundable application fee. Outside of this timeframe, lessees will be required to apply for a new permit to continue permit activities, even if the activities are unchanged from the previous permit.

The PLB will make a determination to approve or reject the renewal based on similar considerations as the approval and issue of a permit, including expert advice from relevant State and local government agencies and any other applicable parties, and the results of any permit reviews. The lessee may be required to seek additional statutory and regulatory approvals.

The PLB may renew the expiring permit:

- a. for the same period or a different period (the term of a permit cannot exceed the term of the pastoral lease)
- b. on the same conditions or on different conditions.

If the application is approved by the PLB, a written offer of a renewed permit with conditions will be provided to the lessee. The lessee must accept, sign and return the written offer to DPLH within 60 days in order for the permit to be reissued.

Review of a permit

Where the term of a permit is greater than five years, a review of the permit will be undertaken at five yearly intervals, from the date of issue. The permit review will include assessment to ascertain whether:

- a. the permit activity is still consistent with the Authorised Permit Activity as approved by the PLB; and
- b. the lessee remains compliant with the permit terms and conditions; and
- c. changes in the law or environmental or other conditions require variation of the permit and its conditions.

The permit review may include a review of the annual permit rent, as determined by the Valuer-General.

As a result of the permit review, the PLB may:

- a. determine that no alterations to the permit or conditions are required;
or
- b. require that the permit or permit conditions be amended to better reflect activities being undertaken, or to take into account any issues identified or other reasonable changes that may be necessary.

The PLB may request that a permit review be undertaken prior to the five-year period if permit conditions require additional reporting or monitoring, or if compliance issues arise.

Suspension / cancellation of a permit

The PLB may suspend or cancel a permit if:

- a. there has been a breach of a condition to which the permit is subject;
or
- ib. information contained within or provided in support of the permit application was false or misleading.

The PLB must, before suspending or cancelling a permit, provide written notice of the grounds on which this decision was reached, and provide the lessee reasonable opportunity to provide comments and/or information relevant to the PLB's decision.

Any subsequent decisions by the PLB, including the lifting of a suspension, extension of a period of suspension, or a decision to cancel or not cancel a permit, must also be provided by written notice to the lessee.

In the instance a permit is suspended, a lessee's requirements will not be impacted in relation to payment of annual rent as per the permit conditions. If a permit is cancelled by the PLB, the lessee does not have to pay permit rent from the date of cancellation.

If a permit is cancelled, the lessee will be required to make good the land in accordance with the condition(s) of the permit, to the satisfaction of the PLB.

Directions and default notices

The PLB may give a written direction to a pastoral lessee to comply with a condition of a permit (this can include any action that the permit holder must take in order for a permit suspension to be lifted). A direction may require that the lessee carries out an action in relation to any land under the lease, in the manner and by the date specified or refrain from doing an action in relation to land under the lease.

A pastoral lessee must comply with a direction and must give the PLB any information required in order for the PLB to be satisfied the direction has been complied with.

The PLB may issue a default notice if a lessee fails to comply with a direction given by the PLB or any condition of a permit. A default notice must:

- a. give details of the failure to comply;
- b. specify any action the PLB requires to remedy the effects of the failure in order to comply with the conditions; and
- c. specify a time(s) by which any actions are required to be completed.

Failure to comply with a default notice may result in a fine, the forfeiture of the pastoral lease, or both.

QUESTIONS AND FURTHER INFORMATION ON PASTORAL LANDS BOARD PERMITS

Department of Planning, Lands and Heritage

Pastoral Lease Management and Compliance Team

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