



1 June 2011

Natural Resources Division
Department of Natural Resources, Environment, The Arts and Sport

By email: pastoralnativevegetationbill.nretas@nt.gov.au

To the Natural Resources Division,

Re: *Pastoral Lands (Amendment) Act 2011*

The Environmental Defenders Office (NT) Inc (EDO NT) welcomes the opportunity to provide comment on the draft *Pastoral Lands (Amendment) Act 2011* (NT). EDO NT is a community legal centre specialising in public interest environmental and planning law. This includes supporting appropriate legislation passed for the good government of the Northern Territory¹.

EDO NT supports the amendments to the *PL(A) Act* to allow the use of land the subject of pastoral leases for conservation purposes and the integration of the *PL(A) Act* with the proposed *Native Vegetation Management Bill 2011* (NT). The EDO made a submission relating to the *NVM Bill* in a letter dated 31 May 2011. The submission focuses on some key legal aspects to the *PL(A) Act*, as follows:

Part 2 Objects

1. The EDO submits that the overarching object of the Pastoral Lands Act (*PLA*) should be 'to achieve ecologically sustainable development' for pastoral land management. The concept of ESD is recognised at an international, national and Territory level as the fundamental goal for policy and decision-making to achieve ecological sustainability for current and future generations. EDO refers to the submission to the *NVM Bill* regarding the recognition and implementation of the concept of ESD. The concept of 'healthy landscapes' does not equate to the concept of ESD and the principles it comprises. EDO refers to the submission regarding *NVM Bill* setting out the distinction between ESD and 'healthy landscapes'.
2. The objective of promoting and maintaining 'healthy landscapes' should be strongly implemented throughout the *PL Act* and not be qualified and eroded by the phrase 'as far as practicable'.

¹ The fundamental obligation vested by s6 of the *Northern Territory (Self-Government) Act* in the Territory government.

Part 2 Definitions

3. EDO refers to the suggested definition for ESD included in the submission to the *NVM Bill*. Consistent definitions should be applied across the legislative framework for best practice regulation.
4. The terms used to defined 'healthy landscapes' should be consistently defined across the *NVM Bill* and the *PL(A) Act*.

ESD as criteria for decision-making

5. The achievement of ESD should form part of requirements for permit applications and criteria for decision-making and conditioning of permits.

Part 2, Division 2 – Procedures for issuing permit

6. The procedures for issuing permits under Part 2, Division 2 should clarify that the environmental management plan does not replace an assessment process under the *Environmental Assessment Act* (NT) and *Environmental Assessment Administrative Procedures* (NT).
7. The notification of the permit application should be on the DNRETAS website to make the notification more accessible to the public.
8. The decision of the CEO to grant a permit under section 91D(a) or (b) should be conditional upon the permit holder receiving necessary permissions under other laws to undertake the major development or non-pastoral use.
9. To allow public participation in enforcement of the requirements of the *PL Act*, any person should be able to apply to the CEO for consideration of the suspension of a permit on the grounds set out under section 91J.

Compliance and enforcement

10. It is important for the Territory government to confirm its commitment to ensuring that the compliance and enforcement of contraventions of the proposed Act. This can only be achieved through adequate resourcing, and clear public commitment to this would be well-received.
11. EDO submits that the *PL(A) Act* should provide for open standing to make an application to the Lands, Planning and Mining Tribunal to seek an enforcement order to rectify a contravention of the *PLA Act* or the breach of a permit granted under the Act.

Schedule 2 – Reviewable decisions and affected persons

1. The EDO supports the *PL(A) Act* providing standing to third parties for merits review of decisions relating to major development permits. The EDO submits that third party merits review rights should be extended to non-pastoral use permits.

Yours faithfully,

Environmental Defenders Office (NT) Inc



Emily O'Connell

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