

2015 PASTORAL LEASE RENEWAL PROJECT

On 3 June 2015, the Kimberley Society heard from **Mr Karel Eringa**, assisted by **Ms Denise Hamilton**, both from the Department of Lands in Perth. They provided a summary of the long and convoluted history of the State's 2015 Pastoral Lease Renewal Project. The talk was very timely given that all pastoral leases across the state were due to expire on 30 June.

Members will be familiar with the difficulties faced by public servants in dealing with situations which are more commercial than governmental but in this writer's opinion government has shown itself to be fair and reasonably efficient.

It is probably not generally known that 92% of land in the State of Western Australia is Crown Land. Of that land 870,000 square kilometres (or 34%) is made up of pastoral leased properties extending from the southern region of Israelite Bay to north of Wyndham.

If the leases were to expire and not be replaced or renewed, the pastoralists would be in a very serious position. In the past, that situation was handled by amending or replacing the Land Act, and having pastoralists apply for new leases in lieu of their existing tenure.

Proposals similar to the 2015 project had been framed but not acted on in 1898, 1920, 1950 and 1982. One of the prime factors in implementing the project this time was to ensure that whatever was done would comply with the Native Title Act.

All pastoral leases existing in Western Australia at the time of Karel's talk were granted under the *Land Act 1933* (repealed), with an expiry date of 30 June 2015. All mortgages, subleases, permits, caveats and other encumbrances associated with the leases were also due to expire on or before that date.

The renewal process started in 1990. At that time the holders of 23 pastoral leases (mainly small historical leases in the South West land division) were informed that their leases would not be considered for renewal.

Between 1995 and 2002, the majority of lessees were offered renewal of their leases (subject to a number of conditions relating to compliance with their statutory requirements). The conditions were:

- ✚ compliance with all lease conditions;
- ✚ land to be free of Soil Conservation Notices issued by the Soil and Land commissioner;
- ✚ no outstanding notices or requisitions from the Pastoral Lands Board; and
- ✚ annual lease rental paid in full

In the second phase of the renewal process, areas of land required for a public purpose (e.g. conservation, tourism, expansion of townsites, etc) were identified and proposed for exclusion from pastoral leases. In 2004, with most negotiations between the acquiring agencies, pastoralists and the Department of Lands finalised, exclusion agreements were signed. There were 95 exclusion areas across 75 pastoral stations. The pastoral leases subject to exclusions accounted for about 0.6% of WA's total pastoral estate.

Further recent negotiation of the exclusion agreements took into account current requirements and reduced the areas accordingly. With 25 exclusion areas surrendered since 2004, and 35 no longer required, the remaining 35 exclusion areas affect 32 pastoral stations. Rent adjustments will reflect the new lease area.

Karel explained that the reduction in the number of exclusions came partly from the acquiring authorities indicating that they no longer wished to manage the areas originally identified. In those instances, the Department of Lands was working with the lessee and other stakeholders to find appropriate alternative solution. It was also continuing its work with affected lessees, acquiring authorities, and Landgate to finalise the remaining exclusions.

In 2014, after extensive consultation, lessees were offered a choice between two lease renewal options (Option 1 – Renewal of existing lease, or Option 2 – 2015 lease). Lessees who met the conditions for renewal stood to have their leases renewed on 1 July 2015.

The options gave the leaseholders a choice of a new lease in modern drafting, or simple renewal of the existing lease with all the antiquated terminology so precious to the eye of earlier bureaucrats but now generally regarded as a curiosity. Even though a new lease would be more comprehensible and straightforward, only 25 per cent of lessees opted for the modern form.

When the renewals were offered, two of the 23 exceptions were in the Kimberley. Osmond Valley Station is required for an extension to the Purnululu National Park, and Waterbank near Broome is required for public purposes.

Provision was made for lessees to seek compensation for lawful improvements on areas excluded during the lease renewal and on leases that were not going to be renewed. An improvement is something that increases or improves the value of the land and can include water points, fences, and other pastoral infrastructure. The Valuer General determines the amount of the compensation, basing it on the market value of the improvements as at 30 June 2015.

At the time we heard from Karel and Denise, all existing leases were due to expire within a matter of weeks. That raised the obvious question—what would banks and other bodies holding mortgages do? There seems to have been a good liaison with banks. There are some 280 mortgages on affected leases, and it was anticipated that there would be a long queue of bank officers at Landgate at 10am on 1 July, all keen to register replacement mortgages.

The Department of Lands [website](#) has a lot more information about the 2015 Pastoral Lease Renewal Project. In line with the information presented to the Kimberley Society, the updated website coverage includes the following points:

- ✚ The renewal of 2015 pastoral leases marks an historic event that will likely never happen again.
- ✚ It is the only time in Western Australian history every pastoral lease has expired on the same date, and it is the only time in Western Australian history every eligible pastoral lease that met the renewal conditions was renewed on the same date.
- ✚ Lease renewal gives pastoral lessees security and certainty with new leases providing tenure for up to 50 years. Lease renewal allows pastoralists to continue to focus on their pastoral business and contribute to the economic and social fabric of Western Australia.
- ✚ On 1 July 2015, 435 stations had their leases renewed, representing 99.5 per cent of stations eligible for renewal.
- ✚ This is an extremely high level of compliance among pastoral lessees and reflects the strong cooperation and collaboration between Government and the pastoral sector.
- ✚ All pastoral leases renewed on 1 July 2015 have been granted under the *Land Administration Act 1997* for the same term and on substantially the same conditions as the previous pastoral leases.

Geoff Owen