



# RANGELANDS REFORM



## SPECIAL EDITION: RANGELANDS REFORM

This special Rangelands Reform edition of the KLC newsletter gives you up to date information about the Rangelands Reform process currently proposed by the WA Government to cover rangelands country across Western Australia. It includes information about the proposed amendments to the Land Administration Act 1997, and outlines what this could mean for Native Title holders and claimants. The KLC will keep Kimberley Aboriginal people up to date regarding the Rangelands Reform process and will let you know if and when the legislation is passed.

## Background: What is the land tenure Rangelands Reform?

The Rangelands Reform will introduce a new form of land tenure (land ownership) called Rangeland Leases, which the WA Government plans to create by overhauling current land tenure laws. By bringing in this Rangelands Reform, the WA Government aims to create new opportunities to encourage more people to live in the rangelands region; improving economic, social and land management outcomes. WA Lands Minister Terry Redman believes that the current act is out of date, and that it limits the use of pastoral land because it excludes activities such as tourism, conservation, and agriculture.

The KLC supports the opening up of new economic opportunities across Western Australia, and agrees that there is potential for Rangeland Leases to promote sustainable growth in the Kimberley. However, given that over 50% of the area proposed for reform is covered by Native Title, the KLC is concerned that Native Title holders have not been properly engaged in the Rangelands Reform process, and that the reforms might cause significant hardship and loss of rights for Native Title holders.

Getting Native Title recognised is the first step for Aboriginal people to use their rights over country to bring about economic development. Following a Native Title outcome, Traditional Owners face the challenges of establishing a strong PBC and identifying opportunities to use their Native Title rights and interests to deliver successful outcomes for people and country. While the KLC sees that there are success stories in relation to economic development on Native Title lands, many developers and outsiders think Native Title is something that blocks development, and that Native Title has to be pushed down or extinguished before economic opportunities can be developed. This view of Native Title is wrong, and the KLC is concerned

that the Rangelands Reform may continue the gradual process of weakening Native Title rights and interests in Western Australia.

A Draft Bill to make these Rangelands Reforms part of WA Law was released for public comment in early April 2016 and the WA Government plans to introduce it to Parliament in June 2016.

The KLC has been actively engaging with the WA Government through the public consultation process, and has also made a submission to the Department of Lands to let the Government know where we stand on the introduction of the Rangelands Reform. The KLC met with Minister Terry Redman in Perth in April 2016 and has since drafted a letter to him raising our concerns.

## What are the KLC's concerns regarding the Rangelands land tenure reform?

### 1. Lack of engagement with native title holders

The KLC is very concerned that Native Title holders have not been properly engaged in the Rangelands reform process, especially considering their significant land interests in the Kimberley region. The KLC believes the proposed reforms have not adequately considered the full impact for Native Title holders outside of pastoral lease areas. The KLC believes that further consultation with Native Title holders is required, and is urging the Government to engage in consultation with Native Title holders and Native Title Representative Bodies (NTRBs)/ Service Providers before the legislation is passed in Parliament.

### 2. Lack of resources available to native title holders to make adequate decisions

The KLC firmly believes that native title holders need the appropriate resources to engage in negotiations with Governments. The Government



is proposing that the negotiation of Indigenous Land Use Agreements (ILUAs), required as part of the Rangelands Reform process, will be funded by the development proponent (the person wanting to hold the interest in the land concerned). We feel that this approach creates a significant risk that Native Title holders will not be adequately funded to get accurate advice, and therefore they will not be in the position to make properly informed decisions.

The KLC has strongly urged the Government to put the requirement for an ILUA into the law. This would demonstrate a commitment to obtaining free, prior and informed consent from Indigenous people.

### **3. Native title rights and interests not accurately addressed**

The KLC is also deeply concerned that information provided in the Consultation Paper and other Government documents does not accurately address Native Title rights and interests. For example, current Government documents on Rangelands reform suggest that Native Title rights must be extinguished prior to the grant of freehold or long-term leases.

### **4. The Bill does not take into account the cost of compensation to native title holders**

With over 35% of the land area in question falling on exclusive possession native title land, these reforms are extraordinary, and put at risk valuable Native Title property rights over huge areas of land. The Government has not included the full costing of compensation in their estimates. Compensation should be a significant consideration for both the government and proponents considering a rangelands lease. The KLC recommends that the liability of compensation should be clearly set out and accounted for, and that this information should be disclosed to the public as part of the reform process.

The KLC has strongly urged the Government to get expert advice on this issue, and to engage in a targeted consultation with Native Title holders and NTRBs, including discussions in relation to compensation.

## **What happens next?**

The WA Department of Lands released the Draft Bill in early April and held a series of information sessions throughout April 2016 to explain the Draft Bill. This happened alongside a four-week public consultation period, during which time the government accepted submissions from the public. The WA Department of Lands will review the submissions, and the Government plans to bring the Bill into State Parliament in June 2016. The Government hopes that the legislation will be passed during the August sitting period (before the State election in March 2017).

## **How will this affect Native Title holders if passed?**

If passed, people will be able to apply for Rangelands Leases over much of the Kimberley. Native Title holders and Aboriginal people can apply for a Rangeland Lease, just like everyone else. People may apply for a lease over areas of Native Title land.

If there are Native Title rights and interests in the area of the proposed lease, the Government has said that an Indigenous Land Use Agreement will be required, although this requirement is not currently included in the Draft Bill. An Indigenous Land Use Agreement means that the person applying for the lease must talk with Native Title holders and they must try to reach an agreement about how their Native Title rights and interests will interact with the new interests of the Rangelands Lease holder. They may also discuss what compensation, if any, will be paid to the Native Title holders.

It is not clear what will happen if Native Title holders and the person wanting the lease can't come to an Agreement. The Government may listen to the Native Title holders and not issue a lease. Another possibility is that the Government may decide to compulsorily acquire the land. If they do this, it is a Future Act, and must go through the Native Title Act 1993 future act process, which could include the right to negotiate. If no agreement is reached then it could also be referred to the Native Title Tribunal to make a decision on whether the future act (the compulsory acquisition) should happen. Native title holders do not have a right to say 'no' under the future act process.

## Contact us

The KLC represents all Kimberley Aboriginal people and we are here to support you. If you want to know more about the rangelands land tenure reform please feel free to contact the KLC. You can contact the KLC at our offices in Broome, Derby and Kununurra.

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