



THE GOVERNMENT OF NEW SOUTH WALES

**NATIONAL COMPETITION POLICY REVIEW OF THE
RURAL LANDS PROTECTION ACT 1998**

FINAL REPORT

**NSW GOVERNMENT REVIEW GROUP
SEPTEMBER 2004**

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1. INTRODUCTION

1.1 THE REVIEW PROCESS

This Review was undertaken by a Review Group charged with conducting two simultaneous reviews – a Competition Policy Review and a five-year statutory review required under section 248 of the *Rural Lands Protection Act 1998*. The Review Group’s combined Terms of Reference are reproduced in Appendix 1.

The Review Group was initially chaired by Mr Geoff File, Executive Director Regulatory, from the NSW Department of Primary Industries. Review Group membership changed prior to completion of the Review, including the succession of Mr File as Chair by Mr Scott Davenport, Director Industry Analysis. The final Review Group membership was as follows:

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| • NSW Department of Primary Industries | Mr Scott Davenport
Mr Graeme Eggleston
Ms Barbara Jones
(replaced Mr Roy Jennison) |
| • The Cabinet Office | Mr John Tansey |
| • NSW Treasury | Mr Richard Cox |
| • NSW Farmers’ Association | Mr George Greig
Ms Tamara Cole |
| • Rural Lands Protection Boards | Mr Rick Molesworth
Mr Steve Orr
Mr Alan Russell |
| • minimum rate payer representative | Mr Laurie Stubbs |

Stakeholder consultation was achieved through the distribution of an Issues Paper in February 2004, seven public meetings held in Goulburn, Wagga Wagga, Dubbo, Cobar, Tamworth, Casino and Gloucester between 13 and 16 April 2004, as well as a widely advertised call for submissions that attracted 198 submissions from a wide variety of stakeholders, including primary producers, minimum ratepayers, industry bodies and other interested parties. A listing of submissions made to the Review is contained in Appendix 2.

In submissions to the Review, a number of issues were consistently raised, such as the rating system, TSR management and the manner in which animal health and pest control functions are undertaken. However, the issues raised were found to relate primarily to the administrative and operational aspects of Board activities rather than arguing that the legislative provisions of the Act were the source of the problem, or that they restricted competition.

The Review Group therefore concluded that the issues raised in submissions were most appropriately addressed in the context of the five-year statutory review required under section 248 of the *Rural Lands Protection Act 1998*, which is the subject of a separate report, rather than the Competition Policy Review.

1.2 THE COMPETITION PRINCIPLES AGREEMENT

The Competition Principles Agreement, endorsed by members of the Council of Australian Governments (COAG) in April 1995, committed the NSW Government to undertake a review of all State legislation that restricts competition.

The Agreement requires that legislation should not restrict competition unless it can be demonstrated that the benefits to the community as a whole outweigh the costs and that the objectives of the legislation require that competition be restricted.

In endorsing the Agreement, governments agreed that:

- the objectives of the legislation will be clarified;
- the nature of the restriction will be identified;
- the likely effects of the restriction on competition and the economy generally will be analysed;
- the costs and benefits of the restriction will be assessed and balanced;
- alternative means for achieving the same result will be considered;
- any new anti-competitive legislation must conform to the net public benefit principle; and
- retained anti-competitive legislation must be reviewed at least once every ten years to determine if it is still required.

In assessing the costs and benefits of particular legislation, COAG agreed that the following matters, where relevant, would be taken into account:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally, or of a class of consumers;
- the competitiveness of Australian business; and
- the efficient allocation of resources.

1.3 STRUCTURE OF THE FINAL REPORT

Chapter 2 provides a background on the provisions of the Act. The objectives of the Act are clarified and their continuing appropriateness examined in Chapter 3 of this report. In Chapter 4, the extent to which the legislative provisions of the Act restrict competition is considered, while three alternative means of achieving the objectives of the Act are examined and the Review Group's conclusions are outlined in Chapter 5.

2. BACKGROUND

2.1 THE RURAL LANDS PROTECTION ACT 1998

The Act provides for the establishment of Rural Lands Protection Districts in NSW, the associated Rural Lands Protection Boards (RLPB's) and the State Council of Rural Lands Protection Boards (State Council). The Boards (currently 48) exercise a wide range of functions in the areas of animal health, stock identification, management of pest animals and pest insects, management of travelling stock routes, stock watering places and reserves. Boards play important roles in relation to natural disaster relief and emergency management.

There are over 129,920 RLPB ratepayers in NSW. They contribute approximately \$20.9 million per annum in rates, which fund Board activities.

Boards provide animal disease management functions across rural NSW. This involves disease investigation and advisory activities in respect of herd or flock health problems. 41 Board District Veterinarians, 10 Footrot Advisory Officers and 136 Rangers play an active role in the eradication and control of infectious diseases. Examples include Enzootic Bovine Leucosis in dairy herds, Johne's Disease in sheep and cattle and footrot in sheep. Issues in relation to pesticide residues are also investigated in several Board districts.

Boards are responsible for supervising the control of rabbits, wild dogs and feral pigs, and assist landowners in the control of other pests such as foxes and feral cats.

Boards are also responsible for the management of travelling stock routes and reserves. This involves the management and protection of approximately 600,000 hectares or 0.8 per cent of the State's land area, control of travelling stock movements, protection of remnant vegetation and maintenance of watering points. The travelling stock route network is funded via ratepayers and levies collected from users of the various routes and reserves.

Boards play a major role in monitoring movements of stock in NSW. Board Administrative Officers are the district registrars of livestock brands, earmarks and tail tags. This register allows the NSW Government to monitor stock movements and forms the basis of the Government's food safety and export quality assurance programs.

Boards are involved in implementing major pest insect control campaigns, eg., wingless grasshoppers in Southern NSW, and in assisting landowners in dealing with mice plagues in cropping districts. Boards play a critical role in drought management through the provision of advice to local landholders on animal health and nutrition matters, by receiving application forms from landholders for NSW Government drought assistance, by providing advice to the NSW Government on local seasonal conditions, and assisting the NSW Government in preparing submissions to the Commonwealth Government for Exceptional Circumstance drought assistance.

Boards also play an important role in dealing with other natural disasters such as flood and fire and would be heavily involved in any animal disease emergency such as foot and mouth disease.

In addition to the traditional aforementioned services, Boards are increasingly providing other services to their ratepayers, such as field days and weekend workshops.

Boards are not funded from consolidated revenue but from rates collected from local ratepayers within local Board Districts. The State Council is funded predominantly by board contributions and an annual grant from the Department of Primary Industries.

2.2 PROVISIONS OF THE ACT:

Establishment of RLPB's and the State Council

Section 19 of the Act constitutes the State Council of Rural Lands Protection Boards. The State Council is a Corporation and does not represent the Crown. Boards are accountable to the State Council through a number of provisions within the Act, specific functions of the State Council under S24 of the Act include:

- co-ordination and supervision of the implementation of state wide policy by Boards;
- provision of advice and assistance about, and the monitoring of, the implementation by Boards of function management plans;
- ensuring as far as practicable, that Boards carry out the accounting obligations imposed on them by or under this or any other Act;
- entering into arrangements on behalf of Boards for services to be provided by Boards to public authorities;
- the exclusive responsibility for entry into industrial agreements on behalf of Boards; and
- the provision of training for staff and directors of Boards.

Further functions of State Council include the preparation of the Annual Report for the Board system under the provisions of the *Annual Report (Statutory Bodies) Act 1983* and Section 36 of the *Rural Lands Protection Act 1998*, the resolution of disputes under Section 234 of the Act, the entry under Section 13 of the Act into a Memorandum of Understanding with the Director General of the Department of Primary Industries with respect to the functions of Board, convening the Annual State Conference of Boards, and a range of administrative matters which Boards must comply with, for example the approval of the rates notice.

The State Council is made up of nine members who are elected by Boards in eight regions on a quadrennial basis. Each region has one member with the exception of the Western Division which due to its size has two members. State Council employs a number of staff including a Chief Executive Officer. The State Council is based in Orange.

In keeping with broader administrative requirements of the NSW Government, Boards and the State Council are subject to the provisions of the *Public Finance and Audit Act 1983* which requires the NSW Auditor General to conduct the audits of Boards. Boards and State Council are also subject to the record keeping requirements of the NSW Government through the *State Records Act 1998*, the privacy provisions through the *Privacy and Personal Information Protection Act 1998*, and the provisions of the *Ombudsman Act 1974* in relation

to maladministration and the *Independent Commission Against Corruption Act 1988* in relation to corruption.

Boards are constituted for each district under section 37 of the Act. Each Board is a statutory body, funded by ratepayer contributions. Boards are managed by an elected Board of eight Directors who represent their local areas. Directors oversight the operations of the Board, monitor compliance by ratepayers and focus on land protection issues. Boards employ District Veterinarians, Rangers, Administrative Officers and support staff to fulfil their responsibilities. All Boards with the exception of Western Division Boards, are required to employ a District Veterinarian.

Under section 42, a Board can perform any function with respect to animal health or the protection of rural lands referred to in this Act or the regulations that is not specifically conferred or imposed on another person or body. Boards administer within their district drought and other disaster relief schemes as necessary. The Minister may (with the concurrence of the State Council) delegate to a Board any functions of the Minister under the *Stock Diseases Act 1923*, the *Stock (Chemical Residues) Act 1975* or any other Act prescribed by the regulations for the purposes of this section.

In accordance with section 44, a Board must prepare a draft function management plan for its functions in respect of all travelling stock reserves under its care, control and management. A Board must also prepare a draft function management plan for any of its other functions at the request of State Council.

Rates

Boards are primarily funded by landholders through rates levied on rateable land. The Act uses the notional carrying capacity of land for the purpose of calculating the rate and legal advice is that no issue arises of the rate being an excise duty within the terms of section 90 of the Commonwealth Constitution.

Sections 62 and 64 of the Act specify when rates are to be made and levied, and who is liable to pay rates. The rating system is structured around the three core functions of animal health, pest control and TSR maintenance, as well as the administration required to enable Boards to exercise their functions.

Land is rateable if it is the whole or the part of a holding within a Board district, and it has an area that is not less than the area prescribed in the Rural Lands Protection (General) Regulation 2001 (the Regulations) for the specified Board district. The minimum rateable area for the majority of Board districts under the Regulations is 10 hectares, although Boards can apply to have this reduced, with some Boards in the Western Division using 400 hectares as the minimum rateable area. The Regulations also allow Boards to rate land that has a notional carrying capacity of 50 stock units or greater.

Under section 62 of the Act, a Board established for a district must make and levy a general rate for each year on all rateable land in its district. A Board must also make and levy an animal health rate for each year, and may make and levy one or more special purpose rates on any land in its district when the Board considers it necessary to do so.

Within these parameters, individual Boards have discretion over the levying of rates within their district, and are responsible for the administration and expenditure of these funds in accordance with the Act.

Under the Act, State Council may approve a Board's request to waive or refund rates. However, if circumstances arise such that a Board and a ratepayer are in dispute of a rates notice and or assessed notional carrying capacity the ratepayer may also appeal to the Local Land Board (sections 72-74).

Rates are calculated according to the notional carrying capacity of the rateable land concerned as last assessed by the Board. A Board must assess notional carrying capacity within every five years of its last assessment. If particular rateable land does not have an assessed notional carrying capacity, the amount of the rate payable is the minimum general rate that appears in the Regulations.

Notional carrying capacity in relation to land within a Board district means the number of stock that the Board for that district has assessed could be maintained on the land in accordance with Division 4 of Part 7 of the Act. Notional carrying capacity is determined with reference to stock units:

- 1 wether of any breed and with 2 or more teeth represents 1 stock unit;
- 1 dry goat of any age represents 1 stock unit;
- 1 dry deer of any age represents 1 stock unit;
- 1 pig of any age represents 1 stock unit; and
- 1 dry large stock (other than deer, ie, cattle or horses) of any age represents 10 stock units.

The liability for the animal health rate is determined by the information provided in each landholder's annual return of land and stock. If an Annual Return of Land and Stock is not lodged in accordance with section 76, a Board may levy the general rate, the animal health rate and the MIA levy upon the occupier.

The Boards collect a special purpose noxious insect rate from ratepayers on behalf of the Minister for Primary Industries (these funds are remitted to NSW Primary Industries). This rate, which is used to assist in the control of Australian plague locusts, totalled \$1,020,881 in 2001/02. Boards also collect the Meat Industry Levy on behalf of the NSW Food Authority, which for 2001 amounted to \$1.6 million.

For the year ended 31 December 2002, \$20.9 million was paid to Boards by NSW landholders in the form of general and animal health rates. Revenue from these two rates accounted for 67 per cent of Board's 1998 total annual income (see Table 1).

Other sources of Board income are from granting grazing permits, interest, commissions, animal health and pest control service fees and, for some Boards, Commonwealth grants from bodies such as the Natural Heritage Trust.

Table 1: Rating Information

	2001	2002
Number of general ratepayers	130,356	129,920
Number of animal health ratepayers	NA	NA
Number of minimum rate payers	70,755	71,328
Proportion of minimum ratepayers to total ratepayers	54%	55%
Value of:		
General rates	\$12,764,478	\$13,403,995
Animal health rates	\$7,214,675	\$7,545,176
Total rates	\$20,058,918	\$21,845,799
Total value of minimum rates (\$)	\$2,540,174	\$2,697,041
Proportion of minimum rates to total rates (%)	12.6%	12.3%
Average rate per minimum ratepayer (\$)	\$35.60	\$37.81
Average rate per ratepayer (\$)	\$153.88	\$168.15
Average rate per stock unit per Board (cents):		
- General rates	9.83	10.31
- Animal health rates	5.90	5.90
Total assessed notional carrying capacity (stock units)	119,198,712	119,564,300
RLPB:		
• Total income	\$29,757,783	\$40,842,017 ¹
• Total expenditure	\$28,937,277	\$34,827,967
• Net result	\$820,506	\$6,014,049
Other levies collected:		
- NSW Food Authority	NA	NA
- Noxious Insect	\$1 018 000	\$1 016 000

* Source: 2002 Annual Report of the Rural Lands Protection Boards. All figures are based on calendar years, i.e., the year ended 31 December, except where indicated* as financial years ended 30 June. # rate reduced on account of the drought.

¹ The significant increase in Board income and expenditure for 2002 was as a result of a number of specific events including accounting for defined benefits superannuation surpluses for the first time as a consequence of the introduction of the *Public Finance and Audit Act 1983*, revenues raised from the sale and distribution of the ovine Johnes disease Gudair vaccine, and increased permit income for higher usage of TSR's as the drought took hold.

Table 2: RLPB Rates and Levies

RLPB Rates & Levies	Rating calculations based on Central Tablelands Rural Lands Protection Board
General rate	9.98 cents per stock unit (minimum rate \$41.10)
Animal health rate	6.86 cents per stock unit (minimum rate \$26.00)
NSW Food Authority	1.2 cents per stock unit and a fixed base rate of \$5 (maximum levy payable \$130)
Pest Insect Special Rate	0.5 cents per stock unit.

Animal Health Provisions

Under Section 42 (2) (a) of the Act, Boards have any function with respect to animal health referred to in the Act or the regulations that is not specifically conferred on another person or body. Under Section 42 (3) of the Act, the Minister may (with the concurrence of State Council) delegate to a board any functions of the Minister under the Stock Diseases Act 1923, the Stock Chemical Residues Act 1975 or any other Act prescribed by the regulations for the purposes of this section.

The principal determinate of regulatory animal health functions is the memorandum of understanding entered into with the Director-General under Section 13 (1) of the Act. This sets out the process for determining the animal health functions that boards will undertake in relation to the animal health acts as agreed with Department of Primary Industries. Functions that are undertaken under the Stock Diseases Act relate to disease control activities for notifiable diseases. Rural Lands Protection Boards are responsible for planning and carrying out the activities necessary to control or eradicate such diseases in the district. These activities are focused on protecting properties free of the disease and assisting affected producers to deal with the disease. Functions that are undertaken under the Stock (Chemical Residues) Act relate to the management of chemical residues in stock. Action may be taken in response to residue detections in stock or to assist in strategies to minimise the risk of these occurring. There is also provision for activities under the Exotic Diseases of Animals Act.

Clause 61 of the regulation allows that a board may provide animal health services including advisory services and services related to animal production with respect to prescribed stock and any other animal that has a disease which may affect prescribed stock. Prescribed stock are sheep, goats, deer, cattle, horses, camels, alpacas, llamas, pigs, ostriches and emus. Functions that Boards undertake are related to surveillance and monitoring of animal health and production in their district and the subsequent extension of this information to assist producers to improve productivity. These activities include on property investigations into conditions affecting flock or herd health and production, sharing of information with other animal health personnel and organisations at a state and national level, participating in research, being part of active surveillance projects such as the national Transmissible Spongiform Encephalopathy and Arbovirus monitoring programs etc.

Restrictions on TSR access and requirements for licences and permits

Boards are permitted to sell or use timber felled on controlled stock reserves. Under section 91 of the Act, the Forestry Commission must obtain the consent of the responsible Board before it issues any licences under the *Forestry Act 1916* to any person other than the board to cut or remove timber that is located in a controlled travelling stock reserve (TSR). A licence may include such conditions or restrictions as the Forestry Commission and the responsible Board agree on.

Under section 100, a responsible Board may issue a permit (a reserve use permit) authorising a person or group of persons to engage in any activity, or to occupy or make use of a TSR for the purpose of establishing and maintaining an apiary or for any other purpose. A reserve use permit, however, does not authorise the occupation or use of a TSR by travelling stock or for any stock grazing purposes.

An authorised officer of a responsible Board may issue a permit (a stock permit) under section 101, to authorise a person to enter a controlled TSR with stock, to remain on a controlled TSR with stock, to walk stock on a public road or TSR, or to graze stock on a public road or controlled TSR.

Applications for stock permits and reserve use permits are to be made to the responsible Board in the manner prescribed by the regulations. A stock permit is not to be issued unless the fee (if any) prescribed by the regulations in respect of the permit has been paid or other arrangements made with the Board.

Requirements to carry out work

Under sections 114-116, a Board may by notice given in writing to the owner of any land adjoining a controlled TSR require the owner to carry out fencing work on the common boundary of the land. A fencing notice is to specify whether the owner of the land is to bear the whole or a specified portion of the cost of the fencing work and the contribution payable by the Board. An owner cannot be required to bear more than half the cost of the fencing work except with the concurrence of State Council. An owner of land who carries out fencing work required by a fencing notice is entitled to recover from the Board that gave the notice the Board's contribution to the cost of the fencing work.

A prescribed officer under section 126 may give an order to muster stock. The person in charge of any stock that are on any part of a public road or a TSR must, if requested to do so by a prescribed officer muster stock at a specified place, allow the officer to inspect the stock, assist in the counting of the stock and provide the officer with any other assistance that may reasonably be required.

Requirements to control vertebrate pests and noxious insects

The Minister may make pest control orders under section 143. A pest control order may impose a general destruction obligation, a limited destruction obligation, a notification obligation, empower a Board to serve an individual eradication order or empower a Board to issue a general eradication order for the entire Board district.

Section 169 deals with the eradication of pests. An authorised officer may take such measures and carry out such work on any controlled land as the authorised officer considers necessary to eradicate pests on the land if a pest control order authorises the taking of such action, or the owner or occupier of the land has failed to comply with a pest control order or an eradication order applying to the land. Controlled land in relation to a pest control order means the land to which the order applies.

Powers to seize and destroy pests

Under section 190, an authorised officer may examine, seize, detain or remove any pest from or about a premise. An authorised officer may remove or destroy or cause to be removed or destroyed any pest found in or about those premises that is being kept in captivity without lawful authority. For example, feral pigs have been seized from urban backyards where they were illegally being kept as pets.

Requirements for the provision of information

Section 76, requires that an annual return for a holding in a district must be lodged in accordance with the regulations by any person prescribed by the regulations as the person responsible for the lodgement of a return. A Board may also specify additional information to be provided for the purpose of verifying or updating the Board's records or inquiring into the accuracy of information contained in the return.

Compensation provisions

A responsible Board may recover compensation from a person who damages a controlled TSR or damages or destroys any structure or work located on a controlled TSR an amount equal to its expenses in rectifying the damage or replacing the destroyed structure or work (section 127).

Under section 133, the Minister for Land and Water Conservation (now the Minister for Natural Resources) is liable to pay compensation for improvements made by a local authority or Board, as the controlling authority of a stock watering place, if the land on which the improvements are made is Crown land, or land acquired under the *Crown Lands Act 1989* for a stock watering place, that ceases to be, or to form part of, the stock watering place.

3. THE OBJECTIVES OF THE ACT

3.1 THE HISTORY OF RURAL LANDS PROTECTION BOARDS

Rural Lands Protection Boards (Boards) commenced with predecessor organisations that were established well over 100 years ago. In 1832, the NSW Parliament passed the *Scab in Sheep Act*, which was intended to provide for the control of mange within the “boundaries of land for location to settlers”. The provisions of the Act were extended to the entire Colony of New South Wales in 1935.

A similar Act for influenza in sheep was enacted in 1838, followed by the consolidation of both Acts in 1846, which was itself repealed in 1853 and replaced over the following two years with Acts providing for the appointment of Sheep Inspectors and payment of compensation for sheep destroyed, funded through the raising of a two-pound per 1000 sheep levy based on annual sheep returns. This legislation was replaced by the *Scab in Sheep Prevention Act 1864*, which authorised the proclamation of “scab districts” and the election by leviable owners of five sheep directors in each district.

The *Diseases in Sheep Act 1866* repealed the former legislation and established 41 sheep districts. These districts were based on the police districts of the time. In 1870 the Act was amended to introduce the principle of fees being payable for travelling stock, and for the fire-branding or tar-branding of sheep.

The *Pastures and Stock Protection Act of 1880* replaced the 1866 Act, and continued the concept of local Boards comprised of eight elected directors. The concept of noxious animals was introduced, with marsupials (including kangaroos, wallabies, wallaroos and pademelon), native dogs (defined as dingoes or any dog which has become wild) and rabbits being declared noxious. Landholders were for the first time required by law to control such species, and Boards were empowered to ensure such work was done. Because of the emergent serious rabbit problem, the NSW Parliament in 1901 introduced a *Rabbit Act* to deal with the control of that species, and a *Stock Act* to address animal health issues.

In 1902 the *Rabbit Act* and part of the *Stock Act* were repealed and consolidated into a *Pastures Protection Act*. The *Pastures Protection Act 1912* replaced the 1902 Act. An amendment to that Act in 1918 provided the Minister for Lands to place certain Crown land under the control of a Pastures Protection Board for use as a travelling stock route or reserve.

A new *Pastures Protection Act* was introduced in 1934 which repealed all previous related Acts. This Act contained new provisions relating to the establishment of Pastures Protection Districts and Boards, travelling stock, public watering places, noxious animals (including a requirement for the sterilisation of Alsatian dogs in prescribed circumstances), the creation of Dingo Destruction Districts and Dingo Destruction Boards, rabbit, marsupial and dog-proof fencing and broader provisions relating to the identification of stock.

The 1934 Act had a number of miscellaneous amendments until 1989, when it was replaced by the *Rural Lands Protection Act*. That Act revoked many anachronous provisions contained in the *Pastures Protection Act*, and also provided new legislation more appropriate to the

changed rural circumstances. The name of the Boards was changed to Rural Lands Protection Boards under that Act.

In 1998 Parliament passed a new *Rural Lands Protection Act* aimed at giving the Boards more autonomy. Under the Constitution of the Rural Lands Protection Boards' Association, an executive body was established many years ago to assist Boards in their administrative affairs. The 1998 Act prescribes that executive body, known as the State Council, to be a statutory body. The 1998 Act vests in the State Council many of the responsibilities which the Minister for Agriculture held under the 1989 Act. The 1998 Act commenced operating in September 2001.

3.2 OBJECTIVES OF THE ACT

A primary task of the Review group was to clarify the objectives of the Act and to assess their continuing appropriateness. The long title of the Act is:

An Act to provide for the protection of rural lands; to provide for the constitution and functions of rural lands protection boards and a State Council of Rural Lands Protection Boards; to repeal the Rural Lands Protection Act 1989; to amend the Impounding Act 1993 to provide for the boards to exercise functions as impounding authorities under that Act; to make consequential amendments to various other Acts; and for other purposes.

From this objective it can be seen that the outcome intended to be achieved is broadly defined as “the protection of rural lands”. The remainder of the objective relates to matters of process.

The objective of ‘protecting rural lands’ raises a number of issues or questions, including:

- whether the objective should be literally interpreted, such that it refers to protecting land specifically, ie. protecting land from erosion, or, whether it was intended to describe the broader suite of activities now undertaken by Boards, such as the control of certain diseases and pests. If this broader interpretation was intended it can be seen that the term “protection” is actually referring to concepts such as eradication or control, and the term “rural lands” is primarily referring to land owned by farm businesses and the farm business itself; and
- which ever way the stated objective is interpreted, why was regulatory power required, rather than relying solely on the abilities of landholders to ‘protect’ their own land (or businesses).

To shed some light on these issues the Review Group considered the stated functions within the Act of State Council and the Boards, the outcomes intended to be achieved in the management of TSR’s and the issuing of pest control orders, and also considered the intended outcomes of the Act as stated in its second reading speech.

State Council and the Boards

The functions of State Council are largely of a facilitatory nature, and the functions of Boards are defined as including:

- (1) any function with respect to animal health or the protection of rural lands referred to in this Act or the regulations that is not specifically conferred or imposed on another person or body,
- (2) the administration within its district of drought or other disaster relief schemes,
- (3) the provision of any service on behalf of or to a public authority by arrangement with the public authority,
- (4) the doing of anything necessary, or supplemental or incidental to, the exercise of its functions.
- (5) The Minister may (with the concurrence of the State Council) delegate to a board any functions of the Minister under the Stock Disease Act 1923, the Stock Chemical Residues Act 1975 or any other Act prescribed by the regulations for the purposes of this section.

Travelling Stock Reserves

The Act defines the role of Boards in relation to TSR's in sections 44 – 49 as being to develop 'function management plans' which are to have regard to:

- (1) the management of travelling stock reserves for the benefit of travelling stock;
- (2) the adoption of appropriate stocking practices;
- (3) the conservation of wildlife (including the conservation of critical habitat and threatened species, populations and ecological communities and their habitat); and
- (4) the protection of the reserves against soil erosion and diminution of water quality.

Pest Control Orders

In relation to pest control, the Minister may make pest control orders which describe any land to which an order applies and may declare any non-human mammal or any bird, insect, amphibian, fish, reptile, arthropod, insect, mollusc, crustacean or other member of the animal kingdom to be a pest on the controlled land and which require certain control actions to be undertaken. Pests that are the subject of these orders may impact not only on rural lands, rural businesses and animal health, but may also be declared for the purposes of protecting plant health.

Second Reading Speech

The complete second reading speech is reproduced in Appendix 3. Based on the second reading speech, it can be established that the origins of the act relate back to problems of disease and pest control that were features of early settlement. Certain sheep diseases, and pests such as rabbits, were clearly beyond the ability of individual farmers to control, and

instead required coordinated control campaigns - which explains why regulatory backing was required.

The speech acknowledges that the Act is designed to address various matters including management of travelling stock reserves, control of vertebrate pests and noxious insects, implementation of animal health policy and identification of stock activities. Again, it can be seen that each of these activities is based on underlying 'market failure' problems thereby justifying coordination and therefore regulatory enforcement. For example, in the absence of regulation:

- travelling stock reserves would be over-grazed due to the common property nature of the resource;
- certain pests, insects and diseases, that are highly transmissible, would spread due to the lack of industry-wide coordinated control efforts; and
- stock ownership and disease status would be difficult to determine in the absence of an agreed industry standard for stock identification.

The second reading speech clarifies the role of State Council in ensuring the coordinated control effort of Boards. For example, Council imposes consistency and accountability standards in relation to Board functions, and the activities of State Council are determined by State Conference, the Minister and in the Memorandum of Understanding developed with the Director-General. The second reading speech also identifies board functions as being a suite of "services" that are intended to primarily benefit rural landholders.

Conclusions

Based on submissions to the review it was apparent that many stakeholders believe that the objectives of the Act as currently worded are unclear in that they relate more to matters of process, than to 'on the ground' outcomes that government intends to achieve. Put more simply, the term "protecting rural lands" is ambiguous.

While rural lands protection features as a stated objective of the Act, the Review Group concluded that the intention of government has been to provide a regulatory mechanism to address certain pest and disease control problems where industry wide coordination is required to achieve efficient control, and to administer TSR's for certain purposes and in a manner that avoids their over-exploitation as a common property resource.

The reference here to "certain" pest and disease control problems is significant, and is a reference to that sub-set of diseases and pests that are beyond the capacities of individuals, acting in their own right, to efficiently control. This is because of their 'transmissible' nature and, therefore, the likelihood that control efforts of individuals acting in isolation would be undermined by reinfection from neighbouring properties.

On the basis of these arguments, the Review Group concluded that the objectives of the Act need to be revised to clearly identify the disease and pest control outcomes and the TSR management outcomes that the Act is intended to achieve. This in turn will provide for the functions of State Council and the Boards to be market failure focussed and thereby avoid regulation being applied to disease and pest control problems that are otherwise more efficiently addressed by individuals.

The Review Group therefore recommends that the long title and objectives of the Act be defined as follows:

Long Title: An Act to establish rural lands protection boards and to confer functions on the boards, and for other purposes.

The objectives of this Act are as follows:

- *to establish districts, boards and a State Council;*
- *to provide for functions of boards at a State, district and property level, including the coordination and delivery of certain animal health, animal production and pest control activities, and drought and natural disaster support activities;*
- *to provide for obligations and powers necessary for those activities;*
- *to provide for the sustainable management of Travelling Stock Reserves; and*
- *to provide a framework for funding the activities of boards.*

4. THE EXTENT TO WHICH LEGISLATIVE PROVISIONS OF THE *RURAL LANDS PROTECTION ACT 1998* RESTRICT COMPETITION

4.1 INTRODUCTION

The consideration of restrictions on competition tends to focus on market access for an industry or occupation, and the activities of market participants. In this regard contestability is a key element of competition.

In practice, examining restrictions on competition commonly involves reviewing the scope of specific legislation, typically covering an industry, an output or class of outputs, or a profession or occupation.

The *Rural Lands Protection Act 1998* does not neatly fit into an industry framework, insofar as its coverage relates to all rural land holdings above a certain size,² rather than land used for a specific purpose.³

The Competition Principles Agreement is concerned with regulation that can restrict competition, and while the Act is a regulatory instrument, the regulation in general is applicable irrespective of the usage of land.

From the perspective of a producer, contestability for inputs is relevant, as well as rivalry with other producers. From the perspective of a consumer, both the existence of a choice of supplier, and the ability to exercise that choice is relevant. None of these requirements is adversely affected by the Act.

On this basis the Review Group found that the provisions of the Act support, rather than restrict, competition and the operation of the market.

The provisions address a market failure by addressing externalities and reducing spill-overs which, if unregulated, would result in market participants either:

- not reaping the full rewards of their actions; or
- not bearing the true costs of their actions, and imposing these costs on others.

In this way the Act does not negatively impact on the competitive operation or behaviour of producers.

² Strictly, the Act covers all land in NSW. For example, an eradication order could be imposed on an urban block. In practice it only really operates in areas of agricultural production.

³ However, the Act is mainly concerned with animal health and pest control, and is not about protecting rural land in the broad.

4.2 ANIMAL HEALTH AND PEST CONTROL

Land is, of course, a key input for agriculture, and the Act is concerned with externalities that may be adverse first and foremost for agricultural producers. To do this the Act does not place any restrictions on access to agricultural product markets. It does, however, impose certain conduct requirements on landholders relating to animal health, pest control and eradication that impact on the commercial and non-commercial activities of some landholders.⁴

While these conduct requirements can impose a compliance cost on landholders, they do not create costs that would not otherwise occur, but crystallise costs that would otherwise fall (as externalities) on other landholders.

In the absence of the conduct requirements, it is likely that pests and diseases could become so prevalent that they made agricultural activity more costly and difficult, and possibly uneconomic. The conduct requirements therefore facilitate and encourage agricultural competition rather than restrict or impede it.

The direct costs of the scheme are the costs of the Rural Land Protection Boards and State Council, which had total expenditure in 2002 of less than \$40 million. This is equivalent to just one per cent of the total output of the NSW's \$4 billion agriculture, forestry and fishing industry.

The Review Group therefore concluded that the Act addresses a significant market failure and, in the broad, enhances competition. The net public benefits test is not applicable where legislation does not impose restrictions on competition.

Most of the activities of the Boards are the necessary components of an "enforcement" regime. Legislative schemes cannot operate without such enforcement mechanisms, which in the current case include:

- compliance monitoring
- disease surveillance
- investigations
- animal health planning
- diagnostic and advisory services
- destruction and notification obligations and
- prescribed eradication and other controls.

4.3 RATING

The Act also imposes rates on landholders, like a local government rate⁵ and with similar characteristics to a hypothecated tax. It is noted that taxes are outside the scope of National Competition Policy.

The rates are not arbitrary, and are imposed on a well-defined basis treating like landholders

⁴ RLPB's responsibilities for Travelling Stock Reserves are discussed below.

⁵ It is relevant to note that the NCP review of the NSW *Local Government Act* did not find local government rates to cause any restrictions on competition.

in the same way, and are a cost of business much like other costs on business.

The rating system internalises the costs of the regulatory arrangements to landholders who are the principal beneficiaries of the regulations. The rating scheme provides for rate payments to be in proportion to potential benefits, as they relate to land area, potential stock carrying capacity and actual stock held. A beneficiary-pays approach is consistent with economic efficiency principles.

It may be argued that there is scope for distortions to the extent that similar landholders on either side of a border between Board Districts could face different rate liabilities. In practice, however, State Council's policy is to ensure that significant differences in rate liabilities do not arise between adjacent board districts.

It might also be argued that RLPB rates disadvantage the competitive position of NSW agricultural producers relative to other States whose landholders do not face a similar direct impost. However, the rates paid are relatively small. Of the total 130,000 rate payers in 2002, more than half, were "minimum ratepayers" who paid annual rates of between \$10.80 and \$63.94. The average rate paid in 2002 was just under \$170 per ratepayer. While ratepayers with large landholdings and/or large numbers of stock units can pay rates of several hundred dollars, the highest general rate was only 16 cents per stock unit, and the highest animal rate was only 11.6 cents per stock unit (Source: Rural Lands Protection Boards Annual Report 2002).

These rates are also very small compared with the total annual value of stock. For example, individual sheep were around \$90 in 2003, beef cattle \$265, and dairy cattle \$908 (Source: MLA and ABARE).

Therefore the Review Group concludes that rates are not a significant impost on production costs, and do not distort production in a way that restricts competition.

4.4 TRAVELLING STOCK RESERVES

Travelling stock reserves (TSRs) are parcels of Crown Land managed by Boards at the local level. These lands are maintained in public ownership, as a public good, so that access for the movement of stock, and as a fodder reserve particularly in times of drought, is available to all community members.

The charges for use of TSRs are modest and relate to the benefits, based on actual usage, per head of stock for walking or grazing. Boards have the discretion to waive fees. The charges for walking and grazing were found to be not inconsistent with the costs of accessing alternative transportation or grazing services.

TSRs provide more benefits to some landholders than others, according to landholders' proximity to a TSR, and the quality of the grazing available. However, this does not amount to a restriction on competition, and it is not a consequence of regulatory activity. It is common to many markets that businesses in different locations face different cost structures. The charges for TSRs do not cover all of the costs of TSR's. Therefore, ratepayers collectively meet some of the costs of TSR's. This could be seen as a subsidy from some

ratepayers to others. But it is an unavoidable characteristic of all taxes that some taxpayers gain more benefits from taxpayer funded services than others, by definition,⁶ and as noted above taxes are outside the scope of NCP.⁷

⁶ By definition, a tax obligation does not provide for the receipt of a benefit of equal value. Taxes always contain an element of redistribution. If that is not so, the obligation is not a tax, but is a fee or user charge.

⁷ It is inevitable that some ratepayers will receive more benefits than others relative to rates paid across the whole range of animal health and pest control activities of the board system.

5. ALTERNATIVE MEANS FOR ACHIEVING THE SAME RESULT

The Review Group identified three options for pursuing the objectives of the existing Act.

Option One – Repeal the Act.

The provisions of the Act address a market failure by addressing externalities and reducing spill-overs. If unregulated, this would result in market participants either not reaping the full rewards of their actions; or not bearing the true costs of their actions and imposing these costs on others. This is not efficient, or desirable, and this option is not supported.

Option Two – Fund the animal health, pest control and stock route activities from Consolidated Revenue.

The externalities dealt with in the Act are addressed through other means in other jurisdictions, typically paid for through consolidated revenue rather than through a hypothecated tax or user charge.

This spreads the cost of the externalities across a very broad base, irrespective of the benefit derived, reducing to a great extent the impost on producers.

However, in doing so it places the majority of the cost of the regulatory arrangements on those who are not the principal beneficiaries of the regulations, contrary to economic efficiency principles. For this reason this option is not supported.

Option Three - Retain the Act.

As outlined above, the provisions of the Act support competition.

The provisions respond to a market failure by addressing externalities and spill-overs which, otherwise, would negatively impact on the competitive operation or behaviour of producers.

For this reason retention of the Act is supported.

APPENDIX 1: TERMS OF REFERENCE

REVIEW OF THE *RURAL LANDS PROTECTION ACT 1998*

1. The review of the *Rural Lands Protection Act 1998* shall be conducted in accordance with the principles for legislation reviews set out in the Competition Principles Agreement. The guiding principle of the review is that legislation should not restrict competition unless it can be demonstrated that:
 - (a) the benefits of the restriction to the community as a whole outweigh the costs; and
 - (b) the objectives of the legislation can only be achieved by restricting competition.
2. The review is to focus on those sections of the Act and Regulation which restrict competition and is to:
 - (a) clarify the objectives of the legislation being addressed by those sections, and their continuing appropriateness;
 - (b) identify the nature of the restrictive effects on competition;
 - (a) analyse the likely effect of the identified restriction on competition on relevant interest groups and the economy generally;
 - (b) assess and balance the costs and benefits of the restrictions identified; and
 - (c) consider alternative means for achieving the desired result, including non-legislative approaches.
3. When considering the matters in (2), the review should also:
 - (a) identify any issues of market failure which need to be, or are being addressed by the legislation; and
 - (b) consider whether the effects of the legislation contravene the competitive conduct rules in Part IV of the *Trade Practices Act 1974 (Cth)* and NSW Competition Code.
4. The review shall consider and take account of relevant regulatory schemes in other Australian jurisdictions, and any recent reforms or reform proposals, including those relating to competition policy in those jurisdictions.
5. The review shall consider and take account of the report and recommendations of the recent review of the rating system conducted by the State Council of the Rural Lands Protection Boards Association.
6. The review shall consult with and take submissions from rural lands protection boards, rural lands protection board ratepayers and other interested parties.
7. The Review Group shall conduct a concurrent review of the Act with a view to assisting the Minister to fulfil the following obligations under section 248:

- (i) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
 - (ii) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
 - (iii) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.
8. The Review Group shall report separately to the Minister for Agriculture on its NCP review and its review conducted in accordance with section 248 of the Act .

APPENDIX 2: LIST OF SUBMISSIONS

The following table list all submissions received by the Review Group by the closing date of 28 May 2004. Some late submissions were received after this date and considered as correspondence at Review Group meetings.

Order Processed*	Name	Position / Organisation	Town
1	Nell Chaffey		Somerton
2	Joan Overeem		(email)
3	Graham Crossley	Australian Horse Alliance	(email)
4	Joscelyn Howell	RLPB Ratepayer	Galston
5	Patricia Barkley		Mulgoa
6	Justin Jefferson		Lithgow
7	John Salter		Manildra
8	B M Sleernan		Bowral
9	Alex Davidson		Glenorie
10	Barry Virtue		Broughton Vale
11	Joan McGregor	Conservation Officer, NSW Bird Atlassers Inc	Normanhurst
12	Marke T Wilson		Mullumbimby
13	R J Crittenden	Chairman, Gloucester RLPB	Wingham
14	Russell Preston		Highgate Hill
15	Marianne O'Halloran		Balranald
16	Dr Maret Vesk	Co-vice-chair, Birds Australia	Crows Nest
17	Ken Wakefield		Ellangowan
18	Maret & Mart Vesk		Coomba Park
19	R J Crittenden	Gloucester, Maitland & Kempsey RLPBs	Wingham
20	Clive F Roberts	District Veterinarian, Dubbo RLPB	Dubbo
21	A J Tindall	Chairman, Casino RLPB	Casino
22	MR & CF Griffiths		Via Lismore
23	Neville Collins	Executive Officer, Grafton RLPB	Grafton
24	Roger D'Arcy	Manager, Braidwood RLPB	Braidwood
25	Neville Collins		Grafton
26	Peter Metcalf		Armidale
27	Neil Drew		Brocklesby
28	Mrs S LeMaiste		Via Taylors Arm
29	Shirley Ann Korzuch		Via Kempsey
30	Christopher Nadolny		Armidale
33	JMN Wallace		Murringo
34	K Raicevich		Wauchope
35	Russ Watts		Tamworth
36	Trish Holt		(email)
37	David Kanaley		Mullumbimby
38	Colin Brooks	President, Combined Tweed Rural Industries Association	Murwillumbah
39	Barbara Perry		Kempsey
40	Rob Sewell	Executive Director, Australian Lot Feeders' Association	Sydney
41	Donald G Capel	The Oaks Pastoral Co	Narrabri
42	Jake Williams		Wallabadah
43	Sharon & Tom McIvor		Via Willawarrin
44	Kim F Turner	Manager, Yass RLPB	(email)
45	Pat Shultz		Armidale
46	Geoff Davis		Tibooburra

48	G & K Lamb		Mongaralowe
49	Russell Preston		Highgate Hill
50	Lorraine Maloney		Via Oberon
51	Pam Rooney	Tamworth Birdwatchers Inc	Tamworth
52	Mrs J M Clarke		Via Cobargo
53	Maxwell O'Brien		Glen Innes
54	Sharon Bridgart	Manager, Forbes RLPB	Forbes
55	Jocelyn Howell		Galston
56	L J Brown	Director, Central Western Pastoral Holdings Pty Ltd	Goulburn
57	Beth Williams	Armidale Branch National Parks Association of NSW	Armidale
58	Digby Rayward	District Veterinarian, Maitland RLPB	Maitland
59	Danielle Hanson	Manager, Maitland RLPB	Maitland
60	Barrie Griffiths	North East Forest Alliance, Hunter Region	Singleton
61	Allan Glassop		Cundletown
62	Warren Carlon	Demopolis Pty Ltd	Griffith
63	Stephen L Reid		(email)
64	Laurie Stubbs	Convenor, Commonsense Lands Group, Lismore	Rosebank
65	Mark Rowe		Narrandera
66	James Williams		(email)
67	Jocelyn Hulme	Honorary Secretary, Mudgee District Environment Group	Mudgee
68	Joy Walker		(email)
69	Aarn	District Veterinarian, Nyngan RLPB	Nyngan
70	Paul Recher		(email)
71	Eric Davis		(email)
72	Don Pratley	Oakbrook, Nelungaloo Marino Studs	Bathurst
73	Ian Donald	Administration Officer /Ranger, Wilcannia RLPB	Wilcannia
74	Peter Westblade		Lockhart
75	(anon)		
76	Michael McMahon		South Gundruimba
77	Kevin Blackwood Hawkins		Tumbarumba
78	Kath Wray	Coordinator, Citizens Wildlife Corridors Armidale Inc	Armidale
79	WD Clarke	Chairman, Young RLPB	Young
80	J D Child		Via Grafton
81	Lance Beamish	Manager, Wagga Wagga RLPB	Wagga Wagga
82	Roger D'Arcy	Manager, Braidwood RLPB	Braidwood
83	B J Meyer		Tamworth
84	D Jensen		Wentworth Falls
85	Stan Brunsdon	Brunston Past Co	Wagga Wagga
86	Ian Cohen MLC	The Greens	Sydney
87	Hugh Ermacora		Mullumbimby
88	John Davies		Narrandera
89	ED Fair		Tamworth
90	John Van Pierce		Via Kempsey
91	Peter Thompson	Friends of the Pilliga	Coonabarabran
92	Darvel Baird		Wellington
93	Joan & Michael Fearn		Moruya
94	Kate McLaren		Moonbi
95	Clare Hammill	Nature Conservation Council of NSW	Sydney
96	Billy Weiss	President, NSW Apiarists' Association	Glen Innes
97	Don Mudford	Chairman, Dubbo RLPB	Dubbo

98	KM & RD Stewart		(email)
99	Trevor Ablett	Administration Officer/Ranger, Wentworth RLPB	Wentworth
100	Graham Bailey		Orange
101	Shaun Slattery	President, Association of District Veterinarians of NSW	Tamworth
102	Sally Davis	Administrative Assistant, Bourke RLPB	Bourke
103	Marilyn Martin		Goonengerry
104	Phil Rogers	Clarence Valley Council / Clarence River Tourist Association	South Grafton
105	Andrew Biddle	District Veterinarian, Northern New England RLPB	Glen Innes
106	Toni McLeish		Red Hill
107	Mrs D Macpherson		West Kempsey
108	C B Baker		Gunnedah
109	Adrian Gattenhof		Mullumbimby
110	Susan Russell	North Coast Environment Councillor	(email)
111	Glenn Crossman	President, Liston Farmers Landcare & Feral Animal Control Group	Liston
112	Michael Vickery	NSW Farmers, Guyra Branch	Guyra
113	Clive F Roberts	District Veterinarian, Dubbo RLPB	Dubbo
114	Leigh Priestly		Lowanna
115	Mathew Dunbar	Director, Armidale RLPB	Walcha
116	Clare Scanlan	District Veterinarian, Coonamble NSW	Coonamble
117	Steve Eastwood	District Veterinarian, Coonabarabran RLPB	Coonabarabran
118	Brian Clifford	Chairman, Cooma RLPB	Cooma
119	Stephen Debus	Division of Zoology, UNE	Armidale
120	Mark Morawitz		(email)
121	W R Williams		Kyogle
122	Alan Puckeridge		Cootamundra
123	Mandi Stevenson	Administrative Officer, Bombala RLPB	Bombala
124	Alan Goldstein		(email)
125	Peter Thompson		(email)
126	Martin Smith	Ranger, Coffs Coast Area	Dorrigo
127	Hugh Ermacora		Mullumbimby
128	Bev Smiles	Central West Environment Council Inc	Wollar
129	J P Williams		Bombala
130	Bill Phillips	Chairperson Central Region Aboriginal Land Council	Dubbo
131	Tim Scrace	President, National Parks Association of NSW, Tamworth Namoi Branch	Tamworth
132	JW Dobbie		(email)
133	Paul Tollis		(email)
134	Mrs Val Wiseman	Chair, Upper Murrumbidgee Catchment Coordinating Committee	Lyneham
135	Max Hams	Chairman, Broken Hill RLPB	Broken Hill
136	Deborah King	Administrative Officer, Northern Slopes RLPB	Warialda
137	Colin McDonald	Chair, National Parks Association of NSW, Lachlan Valley Branch	Parkes
138	Belina & Alan Stern		Bodalla
139	Colin Gyorgy		Manilla
140	Geoffrey Langford	Chairman, Cobar RLPB	Cobar
141	Mary Steep	Administrative Officer, Hunter RLPB	Singleton
142	John R Tucker		Manilla
143	Baids McIntyre		Tamworth
144	Joan & Michael Fearn		Moruya

145	Tim Johnston	General Manager, Central Tablelands RLPB	Bathurst
146	James Ramsay		Bonalbo
147	Rex Boag		Coleambally
148	James Jackson		Guyra
149	Lindy Goodman	Executive Officer, Moree RLPB	Moree
150	Tina Woolfe	Secretary, North East Pest Animal Advisory Committee	Glen Innes
151	Eslyn H Johns	Executive Officer, Narrabri RLPB	Narrabri
152	Mrs CM Talbot		Cooma North
153	DJ Goodman		Mungindi
154	G P Corby	Manager, Riverina RLPB	Deniliquin
155	Peter Reilly		Nelungaloo
156	Jeff McQuiggin	Administrative Officer, Mudgee/Merriwa RLPB	Mudgee
157	Tom Armitage	Broadmeadows Station	(email)
158	Jim Booth	Executive Director, Department of Environment and Conservation	Hurstville
159	Andrew Tickle	General Secretary, NSW Cane Growers Association	Wardell
160	William Saunders		Port Macquarie
161	NSW Farmers' Association		Sydney
162	Stephen Crossling		Candelo
163	Michael Reardon		Kyogle
164	J O'Neill		Via Kyogle
165	Darryl & Karen Smith		Via Kyogle
166	G L Moore		Via Kyogle
167	Barry & Marella Green		Via Kyogle
168	J Duley		Via Lismore
169	State Council of Rural Lands Protection Boards		Orange
170	John Jeayes	Honorary Secretary, North Coast Environment Council Inc	(email)
171	EP Adam		Via Casino
172	Jim Maynard	Honorary Secretary, NSW Farmers Association, Wentworth Branch	Via Mildura
173	Alleyne J Thompson		Duranbah
174	Russell Preston		Highgate Hill
175	Robert A Boyd		Armidale
176	Stan Heywood		Rosebank
177	Andrew Kerr		Walgett
178	Bill Newberry		Mullumbimby
179	Ian Clingan	Administrative Officer, Gundagai RLPB	Gundagai
180	Judith Cooney	President, National Parks Association of NSW, 3 Valleys Branch	Stuarts Point
181	Dorothy Carmody		Warrell Creek
182	Howard Furner		Goonengerry
183	D H Schich		Coonamble
184	Sue Gordon		Young
185	M Findley		Sandy Beach
186	Wendy Smallwood	Chair, Bicentennial National Trail Ltd	Oberon
187	Carolyn Barlow	President, Rylstone District Environment Society Inc	Rylstone
188	Tony Eshman	Administrative Officer, Northern New England RLPB	Glen Innes
189	Wendy Murray		Tamworth
190	Alan Ticehurst		Bookham
191	Ralph Johnston		South Golden

192	The Administrative Officer	Balranald RLPB	Beach Balranald
193	Geoffrey Langford		Cobar
194	Keith Hart	District Veterinarian Camden	Camden
195	R Chevis	Chairman, Moss Vale RLPB	Camden
196	G Currey		Armidale
197	Daryl Paull	Manager, Armidale RLPB	Armidale
198	Kay & Denis Page		Ewingar
199	Alan Zweck		Henty
200	Beth White		Ben Lomand
201	Wendy Spencer	Project Manager, Dharriwaa Elders Group, Walgett Aboriginal Medical Service	Walgett

* A total of 198 submissions are listed. Some serial numbers are missing as a result of duplicate submissions being inadvertently processed.

APPENDIX 3: SECOND READING SPEECH

In relation to the objectives of the current Act, the Minister of the time stated:

The Rural Lands Protection Bill is designed to continue the important task of protecting rural lands. Rural lands protection boards have existed in some form for over 150 years. In 1902 the first Pastures Protection Act was passed. This was followed by the Pastures Protection Acts of 1912 and 1934 and the Rural Lands Protection Act 1989. The bill which I now bring before the House will replace the Rural Lands Protection Act 1989. Whilst this bill maintains all of the traditional board functions that have evolved over time, it will change the manner in which the 48 boards operate. The role of the rural lands protection boards is to be changed to allow boards more autonomy.

The bill will also establish a State Council which will replace the existing Council of Advice. The State council is to perform an overseeing role to ensure board accountability and to co-ordinate board services across the State. The Pastures Protection Act 1934 and the Act that succeeded it, the Rural Lands Protection Act 1989, covered a range of matters. These include management of travelling stock reserves, control of vertebrate pests and noxious insects, implementation of animal health policy and identification of stock activities. These Acts were drafted in a very prescriptive manner leading to inflexibility with regard to the manner in which boards undertake their duties. In 1994 a working group was set up to review the legislation. Also Coopers and Lybrand were commissioned to undertake a broad-based review of boards and the role of the Council of Advice.

The Coopers and Lybrand review highlighted the need for change within the board system, including the lack of accountability of individual boards. Coopers and Lybrand also recommended a number of changes to improve the management of boards and to make boards more accountable for their actions. In 1996 I established a task force to examine the feasibility of implementing the recommendations in the Coopers and Lybrand report. Finally, in late 1996 I formed a new review team made up of representatives of the original working group and the task force to complete the review of the Act. The bill is substantially the result of recommendations made by the review team and reflects a great deal of consultation with the Council of Advice and rural lands protection boards.

The bill provides for the continued operation of the 48 rural lands protection boards in a new and improved framework. The State Council of Rural Lands Protection Boards will consist of representatives of each rural lands protection region in the State. Unlike the present Council of Advice, the State council will be a statutory corporation with supervisory powers over the boards. There will be consequential changes to the responsibilities and accountabilities of the boards. The framework will also be shaped by new administrative schemes and procedures, particularly in respect of pest control, which are designed to be more effective and efficient.

The boards will be given greater autonomy in the exercise of their functions. However, they will be accountable to the State Council for the implementation of general policies. These policies will be determined at the State conference of the Rural Lands Protection Association. State conferences will be held annually to determine, among other things, the general policies to be implemented by boards and the setting of the budget for the State council. The State Council will be able to issue guidelines in respect of the exercise of any function of the boards as well as directions to boards to take specified action in certain circumstances. If a board fails to comply with a direction, the State Council will be able to take any action necessary to give effect to the direction.

The State council will also be able to request the Minister to appoint an administrator to exercise the functions of the board. The State council will be subject to the control and direction of the Minister in the exercise of its functions. The State council will also be required to enter into a memorandum of understanding with the Director-General of the Department of Agriculture. This memorandum of understanding will relate to the exercise of the animal health functions of the director-general, the State council and the boards, and the exercise of any other functions agreed to. This will allow flexibility in the functions performed by boards in particular and will improve the working relationship between the Department of Agriculture and the boards.

This relationship is vital to the maintenance of a high standard of animal health throughout the State. Failure by the State council to enter into or to comply with the memorandum will be one ground upon which the Minister may appoint an administrator to exercise some or all of the functions of the State council. The accountability of the State council and all boards will be improved by making the State council and boards subject to the Public Finance and Audit Act 1983. An example of the less prescriptive nature of the proposed legislation is the provisions in the bill relating to how boards are to manage travelling stock reserves. Details of management requirements are no longer to be contained in the legislation.

They will be transferred to function management plans, which each board will be required to prepare for travelling stock reserves within its district. This is an important recognition of the boards' responsibilities in maintaining the sustainability of travelling stock reserves and the natural and cultural heritage that these reserves represent. In addition, boards will have to prepare a function management plan for any other matter, as directed by the State council. Further examples of the flexibility of the proposed legislation are the rating and pest control provisions. Boards will be able to raise special purpose rates for particular programs. Under the present legislation this is not possible. The only rates that are able to be levied are specifically named in the Act.

The bill will enable boards to levy one or more special purpose rates when the board considers it necessary to do so for new initiatives. The pest provisions will enable an order to be made by the Minister declaring an animal, bird, insect or other member of the animal kingdom to be a pest either in a particular locality or generally in this State. The order will be able to impose or confer the appropriate obligations or powers necessary to control that pest on the land concerned. This is referred to as a pest control order. A range of obligations may be imposed by such an order. Examples include an obligation to eradicate any pest on certain land by a certain method and an obligation to notify a board when pests are detected on the land. A pest control order may also empower a board to make more specific eradication orders that take into account local conditions and, where appropriate, modify aspects of the pest control order.

The savings provisions in the bill will enable the Minister to make an order on commencement of the legislation regarding existing pests, being wild dogs, the European strain of wild rabbit and feral pigs. This will ensure continuity for the present state-wide programs in place to control these serious pests. It has been decided that the definition of wild dog will no longer include the dingo, if it is held in captivity. This means that the pest control provisions will relate to the dingo only if it is living in the wild. Dingoes that are domestic pets will be subject to the Companion Animals Act 1998, as are other dogs. Also the pest control provisions will relate only to the European strain of wild rabbit. Accordingly, people will no longer need the Minister's permission to keep as pets any other breed of rabbit.

An important change is the relationship between district veterinarians of boards and the Department of Agriculture. Under the present legislation although district veterinarians are required to be employed by boards, they are subject to the direction of the department. Under the bill this relationship will be removed and district veterinarians will be under the sole control of their employer boards. As a consequence, boards will become accountable for the vital animal health work undertaken by the district veterinarian and other board employees. This obligation will be set out in the memorandum of understanding.

The department will continue to provide animal health services to people in the western division, whose boards do not have to employ a veterinarian. This bill is the culmination of a government initiative to improve the administration of the rural lands protection boards. It represents a significant improvement in the administration of boards and heralds a new era in improved accountability. This will benefit rural land-holders through improved management of significant issues such as animal health, pest animal and insect control, and the sustainability of travelling stock reserves. I commend the bill to the House.