



THE GOVERNMENT OF NEW SOUTH WALES

**STATUTORY REVIEW OF THE
RURAL LANDS PROTECTION ACT 1998**

FINAL REPORT

**NSW GOVERNMENT REVIEW GROUP
NOVEMBER 2004**

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EXECUTIVE SUMMARY

This Report has been produced by a Review Group comprising representatives of the NSW Government, NSW Farmers' Association, State Council of Rural Lands Protection Boards and a minimum ratepayer to satisfy a requirement contained in section 248 of the Rural Lands Protection Act 1998 (the Act). The same Review Group undertook a concurrent Competition Policy Review that was the subject of a separate report.

THE OBJECTIVES OF THE ACT

Many stakeholders believe that the objectives of the Act as currently worded are unclear, with the term "protecting rural lands" being ambiguous with no explanation provided within the Act of what government intends to achieve.

The Review Group found that the intention of government has been to provide a regulatory mechanism to address certain pest and disease control problems that, because of their 'transmissible' nature, require coordination to achieve efficient control, and to administer TSRs in a manner that avoids their over-exploitation as a common property resource. The Review Group concluded that the objectives of the Act need to be revised to more clearly define what is intended to be achieved in relation to disease and pest control.

Recommendation 1: The Review Group recommends that the Act be amended to define its long title and objectives 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.*

ANIMAL HEALTH FUNCTIONS

Most submissions relating to the animal health functions of boards raised operational matters rather than questioning the Act and its associated regulations. The Review Group interpreted this as widespread support for the animal health functions presently undertaken by boards.

The Review Group concluded that the market failures associated with transmissible diseases and associated information deficiencies, as well as the strength of opinion in favour of these board functions, indicates that significant net benefits flow to industry from the animal health

functions of boards. Furthermore, given that most of these benefits accrue to livestock producers, the Review Group concluded that it is appropriate that industry is involved in both the management and funding of this activity.

The Review Group found, however, that some fine tuning of the Act's animal health provisions may be warranted, particularly in relation to: clarifying the various roles and responsibilities of board directors, district veterinarians and ratepayers; addressing the biosecurity risks posed by non-rated small landholdings where animals are run; and more regular review of the Memorandum of Understanding between State Council and the Director-General of DPI to ensure that it remains relevant to current issues and to reaffirm both parties' commitment to the MOU.

Recommendation 2: The Review Group found that the benefits of the Act's animal health provisions exceeded their costs and therefore recommends that the NSW Government retain these provisions (see, however, Recommendation 3).

Recommendation 3: The Review Group recommends that the Act be amended to clarify the animal health functions of Rural Lands Protection Boards.

Recommendation 4: The Review Group recommends that the NSW Government consider what actions, by whom, and the resources necessary that are required to identify, and make subject to animal health surveillance and regulation, livestock owners operating on non-rateable landholdings.

Recommendation 5: The Review Group recommends that the Director-General of the Department of Primary Industries and State Council review the MOU on a biennial basis to ensure that it remains relevant to current issues and to reaffirm both parties' commitment to the MOU.

PEST ANIMAL AND INSECT CONTROL FUNCTIONS

While some stakeholders expressed concerns regarding the level of services provided to them by their particular board, few suggested that boards should not undertake this type of activity.

The Review Group concluded that there exists a clear market failure with respect to pest control that justifies pest control remaining a board function and that board involvement in pest control is generally supported by ratepayers. Furthermore, given that a significant proportion of the benefits arising from pest control accrue to landholders and producers, the Review Group considered that it is appropriate that landholders are involved in both the management and funding of this activity.

The Review Group also received feedback concerning a number of administrative processes required by the Act that are perceived to hinder effective pest control. The Review Group found that the processes to issue eradication and pest control orders could be streamlined.

Recommendation 6: The Review Group found that the benefits of the Act's pest control provisions exceed their costs and therefore recommends that these pest control provisions be retained.

Recommendation 7: The Review Group recommends amending Part 11 Division 2 (“Pest Control Orders”) of the Act to streamline the process by which Pest Control Orders are made, including replacing the current consultation requirements in sections 144(1) and (3) with respect to the Game Council and the Minister for the Environment, with a requirement that the Minister considers the recommendations of the Pest Animal Council, which includes representatives of the Game Council and the Minister for the Environment, before making an order under this Part.

Recommendation 8: The Review Group recommends repealing Section 159(1) of the Act, which requires boards to give notice to the occupier or owner of land to whom it is proposed to issue an individual eradication order. This will not remove the appeal right of the occupier or owner of land with respect to an individual eradication order.

TRAVELLING STOCK RESERVE MANAGEMENT

The Review Group found that the Act’s existing TSR revocation provisions could be streamlined and, in instances where Government does not support a particular revocation, consideration could be given to establishing a mechanism whereby the reasons for this decision are made transparent and some form of management and funding agreement reached, where appropriate.

The Review Group also made the suggestion that State Council could develop guidelines in conjunction with relevant government agencies that better and more consistently enable boards to identify TSRs with the potential to provide significant public benefits and to implement appropriate management regimes that may involve the provision of public funding.

Recommendation 9: The Review Group recommends amending the Act to revise the fee structure to give boards greater flexibility to recover the costs of managing TSRs.

Recommendation 10: The Review Group recommends that the Act be amended to streamline the process by which the withdrawal of the management of TSRs from boards occurs.

Recommendation 11: The Review Group recommends that the NSW Government consider alternative sources of funding for the management of TSRs for which revocation is not approved and which are being retained for non-stock purposes.

Recommendation 12: The Review Group recommends that, where TSRs are found to contain scarce cultural or biodiversity values, consideration be given to implementing appropriate management and funding regimes.

ACCOUNTING AND REPORTING

The Review Group received submissions regarding the compliance burden imposed on individual boards in satisfying the requirements of the *Public Finance and Audit Act 1983* and the *Annual Reports (Statutory Bodies) Act 1984*.

After analysing the magnitude and incidence of accounting and reporting costs across the board system since the commencement of the new Act, the Review Group concluded that it would be appropriate to replace boards' audit arrangements as prescribed under the PF&A Act with more cost effective audit arrangements. The Review Group further concluded that an extension to the period of time within which boards must submit their financial statements for auditing would ease the existing compliance burden over the Christmas-New Year period without jeopardising accountability standards.

Recommendation 13: The Review Group recommends removing boards from the requirements of the PF&A Act and that other appropriate cost effective audit arrangements be put in place to ensure compliance with Australian accounting standards.

Recommendation 14: The Review Group also recommends extending the period of time between the end of the board system's reporting year and its annual report submission deadline from four months to eight months, meaning that the Report would be due on 31 August each year.

In considering the activities of boards, the Review Group concluded that board activities need to be consistent with the overall objectives of the Act. The Review Group acknowledged that boards generally had a positive relationship with their ratepayer base, but felt that this could be improved. Finally, the Review Group was concerned about the effectiveness of notices of board elections.

Recommendation 15: The Review Group recommends that State Council develops communication guidelines for implementation by boards to increase ratepayer awareness of the Act's objectives and the benefits that board services provide. The guidelines could include a compulsory requirement that each board attach to each ratepayer rate notice a short report describing the board's achievements over the last year and its plans for the next year.

Recommendation 16: The Review Group recommends that Schedule 4, part 2 (4)(4) of the Rural Lands Protection (General) Regulation 2001 be remade to require the returning officer to give notice of an election by two or more of the methods listed.

RATING

The Review Group received information that suggested that the present rating system could be improved to reduce inequitable outcomes between ratepayers and to reduce the administrative costs for boards. State Council also informed the Review Group that it had commenced its own analysis and evaluation of an alternative area-based rating concept.

Recommendation 17: The Review Group recommends that prior to further work being

undertaken on the State Council rating concept, or any further option considered to have merit, advice be obtained on their constitutional validity, and if favourable, State Council undertake further detailed quantitative analysis and consultation to determine whether such reforms would reduce the equity and administrative shortcomings of the current rating system.

Regardless of the rating system that is in place, the Review Group concluded that land area alone should be the trigger for rate liability, rather than the present combination of minimum rateable area and notional carrying capacity, in order to avoid potential confusion among ratepayers.

Recommendation 18: The Review Group recommends that State Council, on behalf of boards, submits recommendations to the Minister for the amendment of the prescribed minimum rateable areas and that the Regulations be amended to abolish the requirement for all rateable land to have a notional carrying capacity of at least 50 stock units.

FUNDING OF THE STATE COUNCIL OF RURAL LANDS PROTECTION BOARDS

The State Council has emphasised that their primary concern in relation to their funding is the uncertainty of whether or not the NSW Government will continue to provide appropriate part-funding beyond June 2006 when the current funding arrangements terminate.

Recommendation 19: To ensure the efficient and effective functioning of State Council, the Review Group recommends that in relation to the government contribution to the funding of State Council, the NSW Government consider the various funding options identified by the Review Group including State Council's preferred model of recurrent grant funding.

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 statutory review required under section 248 of the Act. 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, and included Mr Matt Roberts, NSW Treasury, and Mr Roy Jennison, NSW DPI. 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, Richard Cox replacing Matt Roberts and Barbara Jones replacing Roy Jennison. 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 |
| • The Cabinet Office | Mr John Tansey |
| • NSW Treasury | Mr Richard Cox |
| • NSW Farmers’ Association | Mr George Greig
Ms Tamara Cole |
| • State Council of Rural Lands Protection Boards | Mr Rick Molesworth

Mr Steve Orr
Mr Alan Russell |
| • minimum rate payer | Mr Laurie Stubbs |

Stakeholder consultation was 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, and 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 full listing of submissions made to the Review is in Appendix 2.

1.2 SECTION 248 REVIEW

Section 248 of the *Rural Lands Protection Act 1998* contains the following requirement for a review of the Act:

- (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.

This Final Report relates to the section 248 review, with the results of the Competition Policy Review being reported to the Minister separately in accordance with the Terms of Reference.

1.3 STRUCTURE OF THE FINAL REPORT

In Chapter 2 of this Report, background information on the main provisions of the Act is provided. This information relates to the establishment of boards and State Council, the levying of rates, the provision of animal health services, pest animal and insect control, and the management of travelling stock reserves.

In Chapter 3 the nature and appropriateness of the objectives of the Act are examined. In Chapters 4 to 6 an assessment is made of whether the terms of the Act are appropriate for securing the objectives of the Act.

The terms of the Act that are considered include animal health, pest control and management of TSRs in Chapter 4, administration and accountability in Chapter 5, and issues relating to the funding of boards, including the rating system and the funding of State Council in Chapter 6.

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 (boards) 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 board 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 Boards 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.

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 it's functions in respect of all travelling stock reserves under it's care, control and management. A board must also prepare a draft function management plan for any of it's 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 Department of Primary Industries). This rate, which is used to assist in the control of Australian plague locusts, totalled \$1,016,000 in 2002. Boards also collect the Meat Industry Levy on behalf of the NSW Food Safety Authority, which for 2002 amounted to \$1.6 million.

For the year ended 31 December 2003, \$21.7 million was paid to boards by NSW landholders in the form of general and animal health rates. Revenue from these two rates accounted for 55.4 per cent of boards' 2003 total annual income . 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.

There is a significant difference in the ratio of minimum ratepayers to other ratepayers between coastal boards and non-coastal boards. For example, minimum ratepayers comprise 76 per cent of all ratepayers within the 7 coastal boards¹ compared to 46 per cent across all other boards. In terms of rates collected, 57 per cent of total general rates collected in coastal boards come from minimum ratepayers compared to 13 per cent in other boards. A similar pattern is apparent in some inland boards that are located close to large urban centres. For example, minimum ratepayers comprise 84 per cent of Braidwood's total ratepayer base and

¹ Tweed-Lismore, Grafton, Kempsey, Gloucester, Maitland, Moss Vale and South Coast.

contribute 51 per cent of general rates. Continued sub-division of land is likely to increase the proportion of minimum ratepayers over time in both coastal and inland boards.

Table 2.1: Rating Information²

	2001	2002	2003
Number of general ratepayers	130,356	129,920	129,911
Number of animal health ratepayers	NA	NA	80,716
Number of minimum rate payers	70,755	71,328	72,812
Proportion of minimum ratepayers to total ratepayers	54%	55%	56%
Value of:			
General rates	\$12,764,478	\$13,403,995	\$13,688,665
Animal health rates	\$7,214,675	\$7,545,176	\$8,057,377
Total rates	\$20,058,918	\$20,949,171	\$21,746,042
Total value of minimum rates (\$)	\$2,540,174	\$2,697,041	\$2,724,279
Proportion of minimum rates to total rates (%)	12.6%	12.3%	12.5%
Average rate per minimum ratepayer (\$)	\$35.60	\$37.81	\$37.42
Average rate per ratepayer (\$)	\$153.88	\$168.15	\$167.39
Average rate per stock unit (cents):			
- General rates	9.83	10.31	11.43
- Animal health rates	5.90	5.90	6.73
Total assessed notional carrying capacity (stock units)	119,198,712	119,564,300	119,746,163
RLPB:			
• Total income	\$29,757,783	\$40,842,017 ³	\$39,224,160
• Total expenditure	\$28,937,277	\$34,827,967	\$37,103,668
• Net result	\$820,506	\$6,014,049	\$2,120,491
Other levies collected:			
- Safefood	\$1,600,000	\$1,600,000	N/A
- Noxious Insect	\$1 018 000	\$1 016 000	N/A

Table 2.2: Board Rates and Levies

Board Rates & Levies	Rating calculations based on Central Tablelands Rural Lands Protection Board

² 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.

³ 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.

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)
Safefood	1.2cents 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. 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 premises. 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.

2.3 INTERSTATE ARRANGEMENTS FOR RURAL LANDS PROTECTION

The New South Wales system of Rural Lands Protection Boards is unique among Australian states and territories. The main functions of boards – animal health and pest control – are generally undertaken by government entities in other jurisdiction, with animal health most commonly the responsibility of the relevant department of agriculture or primary industries and pest control usually undertaken by local and state government agencies under the supervision of the relevant department of natural resources or environment.

South Australia is a notable exception to this latter pattern, where the *Animal and Plant Control Act* provides for the control of pest animals in local government areas. While land owners are responsible for the control of proclaimed animals on their properties, the Animal and Plant Control Commission sets policies relating to proclaimed animals and plants and provides administrative, technical and research support to the 27 rural animal and plant control boards across the State. These boards are independent, community-based entities (made up of departmental representatives and stakeholders) which formulate local responses to local Commission policies. Funds are provided by both local councils and the State Government and allocated across the State according to local need.

Queensland is the only other jurisdiction to have travelling stock reserves, which are managed under *the Land Protection (Pest and Stock Route Management) Act 2002*. Consultation and partnership arrangements have been developed between local communities, industry groups, the Queensland Government (Department of National Parks and Wild life Services) and local governments to achieve a collaborative approach to stock reserve management in Queensland.

Appendix 5 contains a more detailed description of rural lands protection arrangements in other states and territories.

3: THE OBJECTIVES OF THE ACT

3.1 BACKGROUND

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 1835.

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.

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 TSRs and the issuing of pest control orders, and also considered the intended outcomes of the Act as stated in its second reading speech. The remainder of this section summarises these issues, while the following section considers generic market failure arguments for government intervention.

State Council and the Boards

The functions of State Council are largely of a governing 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 TSRs 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 the Act, 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.

Market Failure Justification for Government Intervention

While the second reading speech was more explicit in describing the functions of State Council and boards, it did not identify the problems that the Government intended to address through the Act. The Review Group therefore considered the 'market failure' arguments relevant to the Act.

Government legislation is usually focused on addressing various forms of 'market failure', which is a term used to describe situations where freely operating markets fail to produce socially desirable outcomes. The various forms of market failure include 'spill-overs', information deficiencies and public goods, all of which can distort the investment decisions of individuals leading to inefficient resource use.

Spill-overs

A primary form of market failure which the Act appears to address is the problem of under-investment that can occur in relation to the control of certain animal health and pest control problems if producers act in isolation, rather than on a coordinated basis. Certain animal and plant diseases and pests easily cross property boundaries and are therefore most efficiently controlled by producers acting in a coordinated manner. If individuals were to act in isolation in regard to these types of diseases and pests, insufficient control or eradication activity is likely and 'externalities', or spill-over costs would arise whereby inaction by one individual undermines the efforts of others.

The existence of spill-over costs is an indicator that:

- (i) those whose property or stock are the source of the pest or disease are probably not bearing its full cost and hence face lesser incentives to undertake control; and/or
- (ii) those who are exposed to the pest or disease as a result of the spill-over face lesser incentives to invest in control measures due to the constant risk of reinfection.

Both of these effects may, in the absence of a coordinated industry approach, such as that provided by boards, tend to result in under-investment in pest and disease control.

It is apparent that this under-investment problem associated with individuals acting in isolation applies equally to plant diseases, weeds and plant pests. To the extent that the Act represents an efficient mechanism to address animal health and animal pests, it could also be expected to be an efficient mechanism to address certain plant health, noxious weed and plant pest problems.

Information

A further form of market failure that the Act is well placed to address is that where producers have poor information about how best to manage and control disease and pest problems.

In the absence of this type of information producers may make inefficient investment decisions thereby exacerbating the spread of diseases and pests.

Access to good information can therefore facilitate increased competition more effectively than regulation in some instances, can enhance the effectiveness of regulatory programs, and can reduce the need for more significant industry wide control strategies and government involvement.

Public Goods

The final form of market failure of relevance to the Review is the provision of public goods. Public goods are goods that cannot be withheld from one individual without withholding them from all and where consumption of the good by one user does not limit its availability to others. In the absence of government intervention, these goods tend to be under-provided. Common examples of public goods include lighthouses and national defence, but some board services, such as disease surveillance and the provision of certain conservation values, may display similar characteristics.

3.2 SUBMISSIONS.

Around 16 per cent of all feedback received by the Review Group was related to the objectives of the Act, with 152 points relating to this issue being raised in submissions. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

- (a) Objectives should include environmental outcomes (20);
- (b) "Rural lands protection" is a misnomer, as boards are mainly concerned with animal health and pest animal control (14);
- (c) Clear objectives are absent but are required (13);

- (d) Boards need to represent the interests of landholders (7); and
- (e) Times have changed and so must the focus of boards (5).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

The majority of submissions addressing this issue agree that the stated objectives of the Act are not clear and so are open to broad interpretation and possibly misrepresentation. Consequently there exists a limited ability to assess the performance of boards against the objectives of the Act because the objectives are not clear. Most boards, ratepayers and other interested parties agree that the board system would provide a better service and be more accountable if the Act objectives were made more explicit.

While acknowledging the absence of clear objectives in the Act, the majority of boards feel that they are adequately satisfying what they believe to be the Act's 'intended objectives'. As such, many of the boards' (and some ratepayers) submissions report that boards are providing a valuable service to ratepayers and the community in keeping with these 'intended objectives'.

On the other hand, many ratepayers submit that they do not feel that they are getting value for money because boards are addressing objectives that are not in ratepayers' primary interests. Some suggest that boards are a historic artefact and suggest that times have changed and so must the focus of the boards.

It was also been suggested that the title of the Act is a misnomer, as boards are mainly concerned with animal health and pest animal control rather than broader 'rural lands protection' issues, and many respondents (predominately from environmental groups) suggest that objectives be introduced that reflect environmental preservation principles.

3.3 DISCUSSION AND 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 given no further definition and is therefore ambiguous.

While the general description "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; to administer TSRs 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 objectives 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.

Recommendation 1: The Review Group recommends that the Act be amended to define its long title and objectives 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: TERMS OF THE ACT

The following three sections of this chapter contain the Review Group's findings in relation to whether or not the provisions of the Act relating to animal health functions, pest control activity and management of Travelling Stock Reserves remain appropriate for securing the objectives of the Act.

4.1 ANIMAL HEALTH FUNCTIONS

Background

Under Section 13(1) of the Act, State Council must enter into a Memorandum of Understanding (MOU) with the Director-General regarding the exercise of any function in relation to animal health. 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.

Under Section 43 (2), each board (other than a board established for a district located in the Western Division) must employ a full time District Veterinarian. Under Section 44(2), a board must prepare a draft function management plan for any of its other functions if it is requested to do so by the State Council.

Clause 61 of the regulations 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.

By virtue of appointment as Inspectors under the *Stock Diseases Act 1923*, District Veterinarians and Rangers have certain powers that, from time to time, they may need to exercise in the course of their duties. The appointment as Inspectors under the *Stock Diseases Act* means that staff are also Inspectors under the *Stock (Chemical Residues) Act 1975* and the *Exotic Disease of Animals Act 1991*. The exercise of any power must be only for the purposes of the relevant Act and must be in accordance with the agreed policy under the MOU, either generally or specifically in relation to the disease or residue concerned. Board staff use their statutory powers to undertake activities to monitor compliance with legislation and to facilitate the management of disease and chemical residue control programs.

The MOU requires both the State Council and the Director-General to agree on certain animal health policy before it is implemented. Once agreed, the State Council will issue one of two documents. If the matter relates to advice to board staff who are holders of statutory offices under the aforementioned animal health Acts, then State Council will issue a written instrument to these people. If the matter does not relate to advice to board staff who are

holders of statutory offices under the animal health Acts, then State Council will issue a guideline to a board. In the instance of a written instrument it is board staff that must comply as they hold the statutory office, and in the case of the guideline it is the board that must comply.

Where the State Council and the Director-General disagree on the issuing of either document, the dispute resolution section of the MOU is invoked, which provides for the Minister to arbitrate the matter. A further significant element of the MOU is that it provides for indemnification for actions undertaken by a board, a board staff member, a director, the State Council, or a State Councillor for anything done pursuant to and in accordance with either a written instrument or guideline under the MOU.

These arrangements provide for boards, and the industries they represent, to play a key role in livestock disease surveillance, reporting of notifiable diseases and associated investigations, quarantine actions, stock disease and chemical trace-back investigations and services in relation to exotic diseases. Boards also develop and implement district and regional animal health plans covering endemic problems such as footrot and sheep lice and provide general animal health diagnostic and advisory services to stock owners and administer stock identification tags, swine brands and associated databases used for tracing disease outbreaks and stock theft investigations.

The animal health functions of boards are therefore underpinned by 'market failure' principles insofar as they address highly transmissible animal diseases that would be difficult if not impossible to control in the absence of the coordinated control efforts of boards. The boards also provide information to stockowners in relation to the prevalence and control of these types of animal disease that further enhances the overall control effort.

Submissions

Over 9 per cent of all feedback received by the Review Group was related to the animal health responsibilities of boards, with 90 points relating to this issue being raised in submissions. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

Support for the retention of the existing animal health functions of the boards:

- a) Animal disease control couldn't be done without boards (23);
- b) Boards are essential to combat exotic disease outbreaks (12);
- c) District Veterinarians do not compete with private vets (8);
- d) The animal health function is the main purpose boards exist (7); and
- e) District Veterinarians provide public benefits (private vets would be unlikely to perform these services themselves) (7).

Support for the removal of the existing animal health functions of boards:

- f) District Veterinarians should be 'fee-for-service' (6);
- g) District Veterinarians should be transferred to the control of NSW Agriculture (this would allow a greater access to facilities) (6); and
- h) Animal health is not being performed adequately by the boards (eg OJD) (5).

Some specific, yet representative, comments from submissions are reproduced in Appendix 4.

The majority of submissions asserted that the animal health functions of the boards are being adequately performed and that the existing arrangements should be continued without amendment. In particular, a relatively large number of submissions state that animal disease control could not be done adequately without boards, boards are essential to combat exotic disease outbreaks, and the public appointment of District Veterinarians addresses a valid animal health and disease market failure. Such submissions suggest that since District Veterinarians do not compete with private vets, they do not restrict competition and should be retained under the current compulsory rating system.

Many of the submissions in favour of retaining the existing arrangements were from boards and their staff. However, a significant number of livestock producers also offered their support for the maintenance of the status quo.

Alternatively, a small number of submissions suggested that the existing animal health functions of the boards were not required and should be removed, altered or transferred to other government agencies. In particular, some landholders who did not run traditional broadacre livestock enterprises suggested that the public provision of District Veterinarians by means of the existing levy system did not meet a valid market failure and should be either transferred to an existing government agency, funded by consolidated revenue, or remain within the board functions but offered on a fee-for-service basis.

The view was also expressed by the Chief Veterinary Officer and State Council that State Council's ability to develop, implement and ensure compliance with state wide animal health policy is limited due to its existing level of resources. This matter should also be taken into consideration when considering Recommendation 19.

Discussion and Conclusions

Most submissions relating to the animal health functions of boards raised operational matters rather than questioning the Act and its associated regulations. The Review Group interpreted this as widespread support for the animal health functions presently undertaken by boards.

The Review Group considers that there are compliance costs associated with board animal health regulatory functions, such as record keeping, diagnostic testing, quarantining of properties, restrictions on trade and the destruction of produce. Nevertheless, the Review Group concluded that the market failures associated with transmissible diseases and associated information deficiencies, as well as the strength of opinion in favour of these board functions, indicates that positive industry benefits flow from the animal health functions of boards.

Furthermore, given that a large proportion of the benefits arising from addressing animal health market failures characterised by significant spill-over costs within industry accrue to livestock producers and landholders more generally, the Review Group concluded that it is appropriate that industry is involved in both the management and funding of this activity.

Some respondents expressed the view that because there was not a specific animal health section in the Act, board directors, district veterinarians and ratepayers had difficulty in forming a clear picture of the animal health role of boards and their staff. After reviewing the Act, the Review Group found that this complaint was justified and considered that redrafting of the Act's animal health provisions would make the various roles and responsibilities

clearer.

The matter of inconsistency in the application of animal health rates was also raised during the consultation process. Bees and poultry were specifically cited as being livestock industries that presently do not contribute to the animal health activities of boards by being listed as a rateable species in the Act.

With respect to beekeeping, the Review Group considered that the knowledge and role of boards in apiary health was limited and that apiarists presently contribute towards bee disease control through the provisions of the *Apiaries Act 1985*. The Review Group therefore concluded that the application of the animal health rate to apiarists was not justified.

Board employed District Veterinarians presently have a duty to investigate potential flock or herd health matters. While it could be argued that this ‘crowds out’ private veterinary services, there was little support for this view among respondents and public meeting attendees, who overwhelmingly supported the status quo in relation to the role of District Veterinarians. The absence of objections to the activities of District Veterinarians by private practitioners further strengthened the position that the benefits of these arrangements exceed their costs.

The Review Group was made aware that not all livestock owners pay rates to boards. Some livestock owners, often with very small landholdings, may escape or evade animal health monitoring. As such, these landholders’ livestock may pose animal health risks.

It was also brought to the Review Group’s attention during the consultation process that it would be beneficial to more regularly review the provisions of the animal health Memorandum of Understanding required between State Council and the Director-General of DPI under section 13 of the Act. The review provisions within the MOU itself require the MOU to be reviewed within the first 12 months of the MOU coming into effect and then by mutual agreement thereafter. In view of the constant changes in animal health policy, the Review Group were sympathetic to the possible need for an additional provision in the Act requiring the MOU to be reviewed on a biennial basis to ensure that it remains relevant to current issues and to reaffirm both parties’ commitment to the MOU.

Recommendation 2: The Review Group found that the benefits of the Act’s animal health provisions exceeded their costs and therefore recommends that the NSW Government retain these provisions (see, however, Recommendation 3).

Recommendation 3: The Review Group recommends that the Act is amended to clarify the animal health functions of Rural Lands Protection Boards.

Recommendation 4: The Review Group recommends that the NSW Government consider what actions, by whom, and the resources necessary to identify, and make subject to animal health surveillance and regulation, livestock owners operating on non-rateable landholdings.

Recommendation 5: The Review Group recommends that the Director-General of the Department of Primary Industries and State Council review the MOU on a biennial basis to ensure that it remains relevant to current issues and to reaffirm both parties’ commitment to the MOU.

4.2 PEST ANIMAL AND INSECT CONTROL FUNCTIONS

Background

Part 11 of the Act contains provisions which relate to vertebrate pest and noxious insect control (sections 141 to 181). Under the Act, the Minister may, through Pest Control Orders published in the Gazette, declare animals, birds or insects to be ‘pests’ and define ‘controlled land’ on which such pests are to be controlled. Presently, wild rabbits, wild dogs, feral pigs and three species of locust are declared pests under the Act.

The Minister may impose various ‘destruction’ and ‘notification’ obligations on occupiers of controlled land, including public land managers and local government authorities, which require such occupiers to continually suppress and destroy declared pests. The Minister may also empower boards to serve individual and general eradication orders on any occupier or owner of controlled land in its district to eradicate pests by methods specified in the order.

The Act also contains provisions which may be used to confer significant powers on ‘authorised officers’ to carry out work on controlled land, and to confer powers on boards in relation to the implementation and administration of pest control orders, including their making and associated consultation procedures. An authorised officer may examine, seize, detain or remove any pest from or about a premises. 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.

In addition to declared pests, boards are involved in the control of foxes, mice and feral cats which, while not formally declared as pests, are controlled to minimise their agricultural and environmental impacts.

Section 172 of the Act provides for boards to contribute to the Noxious Insect Fund, which is used to pay the New South Wales’ contribution to the Australian Plague Locust Commission as well as fund State Government insect control activity. Around \$1 million per year is usually collected from boards for this purpose.

There is also interaction between the Act and the *Game and Feral Animal Control Act 2002* in that the Minister must consult the Game Council before he declares an animal that is already declared a game animal under the *Game and Feral Animal Control Act 2002* to be a pest animal under the Act. Game animals are considered a recreational shooting resource and populations of game animals are given de facto protection from excessive hunting through the licensing provisions of the *Game and Feral Animal Control Act 2002*.

As with animal health, the Review Group identified spill-over costs as the primary market failure addressed by board pest animal and insect control activities. The ability of certain pests to spread or range from one property to another means that landholders have less incentive to take control action because of the likelihood of re-infestations from neighbouring properties.

There are both costs associated with the pest control activities of the boards, and compliance costs for landholders. The boards costs are passed back to landholders through the

application of rates. Compliance costs include the serving by boards of eradication orders on any occupier or owner of controlled land which not only require eradication to be undertaken but specifies eradication methods and the empowerment of board officers to seize, detain, remove or destroy any pest from or about a premises.

Submissions

Over 5 per cent of all feedback received by the Review Group was related to the pest animal and insect control functions of the boards as dictated by the Act, with 71 points relating to this issue being raised in submissions.

Few respondents suggested that pest control did not need to be performed, but submissions that mentioned pest control were fairly evenly split between support for the status quo and suggestions for the alteration of the pest animal and insect control functions of boards. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

Comments in support of the pest animal and insect control functions of the boards

- a) Pest control could not be done without boards (22);
- c) Pest Control is not being performed adequately by the boards (17);
- d) Responsibility for pest animal and insect control should be transferred to Local Government (10);
- e) A review is required to determine which animals should be considered noxious (eg, cats, dogs, dingos, cane toads, cattle ticks). The current definition is too narrow (7);
- f) Pest control should be funded by Government (6); and
- g) Boards should develop agreed management plans for pest animals and insects (3).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

Respondents in favour of the existing arrangements stated that animal pest control was being performed at a satisfactory level and that control could not be done without the infrastructure and expertise of boards. These submissions suggested that the control of pest animals on rural land was a vital service benefiting the whole community.

Respondents in favour of amending boards' current pest control functions raised a number of issues. Some suggested that boards were not adequately fulfilling their responsibilities of pest monitoring and control and so landholders were not getting value for money from the rates they pay. A common suggestion made in these submissions was that the pest control functions and/or funding responsibility of the boards should be transferred to the relevant government agency or local council so that the community as a whole could fund what are perceived as public benefit activities.

Another issue raised was the perception that the present method for declaring animals and insects to be pests is unsatisfactory. It was suggested that animals such as cats, dogs, dingos, cane toads and cattle ticks that are not currently declared as pests under the Act should be so declared as they cause significant impact on agricultural enterprises.

Discussion and Conclusions

A significant number of submissions raised concerns regarding the level of pest control activity by boards. Few, however, suggested that boards should not undertake this type of activity. The Review Group therefore interpreted this to mean that ratepayers were generally supportive of the pest control functions presently undertaken by boards, although there may be scope for individual boards to enhance their pest control activities.

The Review Group identified that there are compliance costs associated with board pest control regulatory functions, such as those associated with eradication orders. Nevertheless, the Review Group concluded that there exists a clear market failure with respect to pest control that justifies pest control remaining a board function and that board involvement in pest control is generally supported by ratepayers.

Like the animal health functions undertaken by boards, their pest control functions represent a 'co-regulatory' arrangement whereby the NSW Government has provided ratepayers with regulatory powers to enforce the coordinated control of certain pest animals and insects. Given that a significant proportion of the benefits arising from pest control accrue to landholders and producers, the Review Group considers that it is appropriate that industry is involved in both the management and funding of this activity.

In some instances, the control of pest animal and insects may also provide benefits to non-ratepayer landholders or the broader community, for example reducing the predation of native fauna by wild dogs and foxes. Consequently, the Review Group concluded that the ongoing ability of State Council to enter into partnership arrangements with agencies such as local council and National Parks was essential to enable the costs of pest control to be equitably shared.

The Review Group also received feedback concerning a number of administrative processes required by the Act that are perceived to hinder effective pest control, including the processes for making a pest control order with respect to a particular species and the issuing of individual eradication orders to individual landholders.

Pest Control Orders

The current provisions of Division 2 of Part 11 of the Act (Pest Control Orders) prescribes a detailed process for the making of pest control orders which involves the following:

- Section 143 empowers the Minister to make a pest control order which imposes any of a list of obligations on various parties and may empower boards and authorised officers with a number of powers. It forbids the making of an order regarding protected fauna or a threatened species and prevents the Minister from empowering a board to serve an individual eradication order on a public authority other than a local authority.
- Section 144 enables the Minister to make a pest control order on his own initiative after consulting State Council or at the request of a board and requires that he consults with the Minister for the Environment if the proposed pest is a native species or with the game Council if the proposed pest is a game animal.
- Section 146 sets out the public consultation requirements that must be complied with before a pest control order may be made.

- Section 147 requires that the Minister must first consult with a public authority before making a pest control order that affects land occupied by that authority.
- Section 148 enables the Minister to delay complying with certain provisions in urgent situations.
- Sections 150 and 151 sets out the publication requirements of an order before it can take effect.
- Sections 152, 153 and 154 provide for the duration of pest control orders and their revocation or amendment and the effect of non compliance with Division 2 on a pest control order.
- Sections 155 and 156 set out the obligations of private and public land occupiers and owners with respect to pest control orders.

This was considered to be a fairly complex and time consuming scheme for the making of these orders. Whilst the scheme ensures that all relevant parties have an opportunity to comment on a proposed order before it is made, the streamlining of this process, without adversely affecting the rights of these parties, would enable earlier implementation of proposed pest animal control measures.

By contrast, the order making process in the Noxious Weeds Act 1993 is much simpler.

- Section 7 of the Noxious Weeds Act 1993 empowers the Minister to declare plants as noxious weeds in respect of a part or the whole of the State and that the order declaring such plants must be published in the Government Gazette. The Minister must obtain the consent of the Minister administering the National Parks and Wildlife Act 1974 before declaring a native species to be a noxious weed.
- Section 8 requires that the Minister categorises the noxious weed into a control category and section 9 sets out the meaning of each of those control categories.

There are no general public consultation provisions applying to this process.

The Review Group recognises that the declaration of a plant to be a noxious plant generates less public controversy than the declaration of an animal to be a pest. However, the control obligations imposed on land occupiers can be emotive. Those issues are dealt with administratively through the accepted practice of referring all proposals for the declaration of plants to be noxious weeds to the Noxious Weeds Advisory Council. That Council provides advice to the Minister on all relevant issues surrounding a proposed declaration.

In order to capture the concerns of all relevant parties in the process of making a pest control order without unduly impinging on their rights, the Review Group considers that Rural Lands Protection Act 1998 could be amended to replace the obligations in section 144 to consult with the State Council and the Game Council with an obligation on the part of the Minister to seek advice from the Pest Animal Council on the “in principle” proposal before making a pest control order. The State Council and the Game Council are both represented on this body. Key public authorities and principle stakeholders are also represented.

The requirement to consult with the Minister administering the National Parks and Wildlife Act could also be dispensed with, as that Minister is represented on the Council.

It is not intended to dispense with the public consultation requirement contained in section 146 of the Act due to the greater degree of public interest that pest control issues generate.

Individual Eradication Orders

Section 159(1) of the Act requires boards to give notice to occupiers of land that the board proposes to issue an individual eradication order. Whilst this provision gives the owner or occupier warning that enforcement action is about to be taken and the nature of the work that they will need to do in order to comply with that enforcement action, in practice, all this provision serves to do is delay the enforcement action. Such delay in issuing pest eradication orders could have particularly serious consequences during, for example, a locust plague or an exotic disease outbreak where failure to control susceptible pest animals may allow the disease to spread.

It is noted that section 165 also provides appeal rights to the local land board against the terms of an individual eradication order. The Review Group considers that this provision adequately protects the interest of the owner or occupier served with an individual eradication order, whereas section 159(1) imposes an intermediate unnecessary step that delays the process of compelling an occupier or owner of land to destroy a particular pest.

Furthermore, the Review Group considers the requirements of section 159(1) to be inconsistent with analogous provisions included in the proposed new model for the control of noxious weeds and other legislation containing provisions to enable rapid response to an emergency, such as the *Stock Diseases Act 1923*, the *Stock (Chemical Residues) 1975 Act* and the *Plant Diseases Act 1924*. The Review Group therefore found that there was no compelling reason to maintain the present method for issuing individual eradication orders and concluded that the Act could be amended to mirror the eradication order processes included in the proposed new model for the control of noxious weeds.

Recommendation 6: The Review Group found that the benefits of the Act's pest control provisions exceed their costs and therefore recommends that these pest control provisions be retained.

Recommendation 7: The Review Group recommends amending Part 11 Division 2 ("Pest Control Orders") of the Act to streamline the process by which Pest Control Orders are made, including replacing the current consultation requirements in sections 144(1) and (3) with respect to the Game Council and the Minister for the Environment, with a requirement that the Minister considers the recommendations of the Pest Animal Council, which includes representatives of the Game Council and the Minister for the Environment, before making an order under this Part.

Recommendation 8: The Review Group recommends repealing Section 159(1) of the Act, which requires boards to give notice to the occupier or owner of land to whom it is proposed to issue an individual eradication order. This will not remove the appeal right of the occupier or owner of land with respect to an individual eradication order.

4.3 TRAVELLING STOCK RESERVE MANAGEMENT

Background

Travelling stock reserves (TSRs) were introduced in the 19th Century to facilitate stock movement throughout the State. The adoption of modern transport has reduced the use of TSRs for stock movement and the area of reserves has declined considerably since their introduction.

Nevertheless, the Review Group identified numerous social, production and environmental values associated with TSRs, including agricultural production through fodder provision, recreational activity and the preservation of biodiversity and cultural heritage. While recreational and production values provide private benefits to individuals, and the environmental services provided by TSRs could be said to provide public benefits, the Review Group was unable to support the ongoing maintenance of TSRs by boards using ratepayers' funds, because ratepayers are not the sole beneficiary of this service.

The primary use of TSRs is currently as a source of private benefit to particular individuals in the form of a fodder supply. The amount payable for the right to graze stock on a TSR (the permit fee) is set down by clause 44 of the Rural Lands Protection (General) Regulation 2001 as follows:

- (a) for a stock permit authorising a person to walk stock, being:
 - (i) small stock--\$1 per 100 head or less, and
 - (ii) large stock--\$1 per 10 or less large stock, for each 10 kilometres or less to be walked,
- (b) for a stock permit authorising a person to graze stock, being:
 - (i) small stock--\$1 per day for each 10 or less small stock, and
 - (ii) large stock--\$1 per day for each large stock,
- (c) for a stock permit authorising any other thing--\$10 per annum.

Graziers across the State therefore gain access to TSRs on the basis of the same permit fee per head of stock, regardless of the differences in the productive capacity of TSRs that occur both between and within board districts. State Council has given boards the ability to waive any part of a permit fee, however, so the regulated fee is effectively the maximum fee that can be charged.

The uniformity of the permit fee structure across TSRs significantly affects the allocation of the resource by rendering less productive TSRs unattractive to potential users. At the same time, flat permit fees are unlikely to maximise TSR revenue where they are set below commercial grazing values.

The statutory permit fees set under clause 44 of the Regulation not only disallow competitive permit allocation, they also entrench an artificial distinction between the much cheaper walking permits and grazing permits. There appears to be little evidence that the productive value of grazing permits are, in fact, ten times more valuable than walking permits, as is implied by the fees set in the Regulation. This arrangement also interferes with the allocation

of the TSR resource and introduces perverse incentives among graziers – as is implied by clause 47, which contains ten sub-clauses devoted to regulating the distance stock must be walked each day.

The Review Group examined the present use and management of the approximately 600,000 hectares of Crown land managed by boards as TSRs, usually at a significant net loss. Table 4.1 contains comparative income, cost and profit information for the 22 boards for which data was available for both 2001 and 2002. It can be seen from this information that few boards make a profit on their TSR management. For example, during a ‘typical’ year, such as 2001, only one board made a profit on their TSRs and only one third of boards made a profit during a ‘high-demand’ drought year, such as 2002.

Table 4.1: TSR Profits by Board 2001-2002*

Board	2002 (Drought year)			2001			Profit in 2001?	Profit in 2002?
	Income	Costs	Profit	Income	Costs	Profit		
	\$	\$	\$	\$	\$	\$		
Balranald	2,563	23,865	-21,302	9,779	15,544	-5,765	No	No
Bourke	53,349	63,684	-10,335	21,699	17,241	4,458	Yes	No
Braidwood	20,743	45,410	-24,667	20,728	41,065	-20,337	No	No
Broken Hill	5,898	39,041	-33,143	5,898	39,041	-33,143	No	No
Casino	43,144	70,305	-27,161	36,419	72,648	-36,229	No	No
Central Tablelands	105,378	104,936	442	13,751	84,307	-70,556	No	Yes
Condobolin	136,225	131,716	4,509	52,930	110,188	-57,258	No	Yes
Cooma	32,575	65,094	-32,519	25,819	67,758	-41,939	No	No
Goulburn	16,683	49,870	-33,187	7,147	50,792	-43,645	No	No
Grafton	57,656	164,370	-106,714	67,884	134,261	-66,377	No	No
Hay	123,973	271,965	-147,992	117,634	231,989	-114,355	No	No
Maitland	20,647	19,865	782	16,748	35,916	-19,168	No	Yes
Mudgee - Merriwa	287,003	265,763	21,240	97,419	256,938	-159,519	No	Yes
Murray	271,099	190,818	80,281	73,992	188,335	-114,343	No	Yes
Narrabri	239,059	389,360	-150,301	219,913	315,731	-95,818	No	No
Narrandera	112,171	181,067	-68,896	36,532	231,170	-194,638	No	No
Riverina	282,918	211,224	71,694	162,764	167,141	-4,377	No	Yes
South Coast	64,450	60,688	3,762	11,308	50,248	-38,940	No	Yes
Tamworth	562,367	627,758	-65,391	267,156	545,985	-278,829	No	No
Tweed-Lismore	26,619	28,503	-1,884	4,532	16,077	-11,545	No	No
Yass	13,179	42,455	-29,276	18,057	51,010	-32,953	No	No
Young	203,098	217,061	-13,963	54,718	192,502	-137,784	No	No
TOTALS	2,680,797	3,264,818	-584,021	1,342,827	2,915,887	-1,573,060		
						Total Yes	1	7
						Total No	21	15

*raw data supplied by State Council.

Board information management systems cannot yet provide accurate information on the proportion of ratepayers that use TSRs. To gain some insight into this issue, State Council requested three boards – Gloucester, Mudgee-Merriwa and Narrabri – to manually generate usage data where individuals that use TSRs more than once during the year are counted as a single user. The results are shown in Tables 4.2 and 4.3, which illustrate the low proportion of total ratepayers that use TSRs for various purposes in those boards. It should be noted that recreational TSR users do not require a permit under the Act and so will not be included the usage tables.

If the information contained in Tables 4.2 and 4.3 is considered indicative of broader TSR usage patterns, then it, together with the information in Table 4.1, demonstrates that widespread and significant cross-subsidisation of TSR users by non-TSR using ratepayers is occurring.

Table 4.2: TSR Users in Selected Boards 2000**

RLPB	Grazing	Travelling	Apiary	Other Reserve Use	Total Users	Total Ratepayers	Users as % of ratepayers
Gloucester	55	2	1	1	59	6835	0.9%
Mudgee-Merriwa	58	9	20	4	91	4870	1.9%
Narrabri	21	90	17	3	131	1589	8.2%
TOTAL	134	101	38	8	281	13294	2.1%

Table 4.3: TSR Users in Selected Boards 2002**

RLPB	Grazing	Travelling	Apiary	Other Reserve Use	Total Users	Total Ratepayers	Users as % of ratepayers
Gloucester	55	2	1	1	59	6910	0.9%
Mudgee-Merriwa	72	76	18	4	170	4929	3.4%
Narrabri	28	136	18	1	183	1618	11.3%
TOTAL	155	214	37	6	412	13457	3.1%

** Source: State Council. Notes: 1 – a user may use the TSR system more than once a year but they have only been treated as the one user. 2 – many boards closed TSRs to stock as the amount of available feed and water deteriorated to levels that would not safely carry stock or prevent degradation. 3 – stock numbers per permit increased in 2002 and these figures are not reflected in the above information. 4 – Other reserve use permits issued authorised use including model aircraft association’s, a motor bike rally, overnight camping, archery club, and seed collection.

Section 45 of the Act stipulates that regard is to be had to the following objectives when boards produce their compulsory draft function management plans for TSRs:

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

It could be argued that, to some extent, the Act imposes competing objectives on boards with respect to TSRs – that is, the management of TSRs for the benefit of stock, and at the same time, for the conservation of wildlife.

Section 86 of the Act provides for the Minister for Infrastructure, Planning and Natural Resources to withdraw the care, control and management of a TSR from a board. This can only be done on the recommendation of the Minister for Agriculture who, in turn, is to take into consideration the views of the board concerned and State Council.

Such a withdrawal of a TSR frees the board concerned from the expense of the TSR’s maintenance and places that responsibility on the Department of Infrastructure, Planning and Natural Resources. Once no longer classified as a TSR, the land may be sold or transferred into the care of another Government agency, such as the Department of Environment and Conservation. It may also be subject to a native title claim once classification as a TSR has been removed.

The number and area of TSRs has been reduced substantially over time as individual TSRs have been withdrawn from boards' control.

Submissions

The management of TSRs under the Act was the single most commented upon issue among respondents, with around 22 per cent of all feedback received by the Review Group being related to the management of TSRs by boards and 247 points relating to this issue being raised in submissions.

View expressed varied widely, from support for the revocation of TSRs, support for the retention of TRSs under existing management arrangements, or suggestions for the alteration of TSR management arrangements. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

Comments supporting the removal of TSRs:

- a) TSRs serve no purpose (they are not used for travelling stock) (10); and
- b) TSRs harbour pests and weeds (7).

Comments supporting the retention of TSRs under current management arrangements:

- c) TSRs are a public resource and should be maintained (ecotourism, environmental benefits, birdwatching, fire breaks etc) (53);
- d) TSRs exist for use as a drought store (15);
- e) TSRs are essential for the movement of large herds / flocks (9); and
- f) It is worth cross-subsidising TSRs to retain control of TSRs - external funding will reduce board discretion over TSR management (9).

Suggestions regarding the retention of TSRs and improvement of management arrangements:

- g) Long term grazing leases should be removed (53);
- h) There should be public funding of TSRs for the provision of environmental/heritage benefits to the community (49);
- i) TSRs are too heavily grazed (20);
- j) There should be more adequate regulations regarding TSR use (to stop TSRs being degraded or sold) (13);
- k) Management of TSRs should be transferred to Government (12);
- l) TSRs should be retained but self-funded - no cross-subsidisation from minimum or general rates (10);
- m) TSRs put pressure on fences, boards (or Government) should pay greater proportion of fencing costs (10); and
- n) There should be public funding of TSRs for camping/recreational benefits to the community (9).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

Respondents calling for the revocation of TSRs tended to cite lack of use and cross-subsidisation of TSR users by the majority of ratepayers who never use TSRs. It is claimed that TSRs were established 100 years ago for the transportation of livestock, however, with the introduction of road and rail livestock transportation in recent years, TSRs now serve no commercial purpose and there is no longer any market failure to justify their existence.

Some respondents suggested that TSRs harbour pests and weeds and promote misuse by drovers such as breaking fences and cattle stealing. As such, these submissions tended to advocate that TSRs should be sold as commercial land, thus internalising most of these mismanagement concerns.

Those calling for the retention of TSRs did so on the grounds of their traditional use as a source of fodder during drought or their cultural, historic and biodiversity conservation values. Approximately 25 per cent of all submissions received by the Review Group suggested that TSRs were a valuable environmental asset, particularly in regard to ecotourism, environmental benefits, birdwatching, fire breaks etc, and thus should be retained on these grounds. Other submissions advocated that TSRs were still useful for the movement of livestock and therefore were continuing to provide the services for which they were originally intended. Few submissions attempted to justify the ongoing maintenance of TSRs by ratepayers on the basis of 'market failures'.

Many submissions were received by the Review Group that supported the retention of TSRs subject to certain changes to the current management arrangements. The most common of these concerns included an assertion that there needs to be greater control of the amount of grazing that occurs on TSRs. Many submissions made the point that TSRs are far too heavily grazed and that grazing leases should be for shorter periods of time.

It was also often suggested that since TSRs provide such valuable public environmental and social/cultural benefits, there should either be public funding made available to boards for TSR management or that TSRs should be transferred into Government control. This issue was also supported by those who feel that the cross subsidisation of TSRs by landholders who do not receive any personal benefits from the TSRs is unfair.

Discussion and Conclusions

TSRs as a fodder store or apiary resource

While numerous submissions to the Review Group claimed that TSRs represented an essential fodder store for livestock producers that are particularly valuable in times of drought, the Review Group heard at its public meetings that TSR fodder production is poorly aligned to demand as pasture growth is limited during drought and over-supplied during good seasons in much the same way that pasture production on private property fluctuates seasonally. Allocation of TSR grazing permits during drought was also thought to be both inequitable and inefficient, as the limited supply of TSR grazing opportunities had to be rationed through some non-price mechanism, despite the fact that all ratepayers had contributed to funding TSR maintenance to some degree.

Those supporting the retention of TSRs as a source of fodder were therefore those most likely to be regular users of TSRs and, thus, recipients of cheap TSR fodder. The Review Group concluded that the provision of subsidised grazing on crown land was probably an inefficient means of supporting farm businesses suffering from the effects of drought.

The Review Group considered the use of TSRs by apiarists as bee foraging sites to be an issue analogous to that of TSR grazing by livestock producers. The repeated granting of TSR grazing and apiary permits to a relatively small number of producers indicates that the present allocation mechanism either gives incumbent permit holders de facto tenure, or, that in the

case of grazing permits, TSR grazing appealed only to producers in the immediate vicinity of a TSR. Either way, the Review Group could not identify a fodder-related justification for forcing the majority of board ratepayers to make up the difference between the cost of TSR maintenance and TSR revenue.

There are, however, a number of production-related benefits of TSRs that may justify the ongoing maintenance of some reserves. These include the use of TSRs for the movement and/or watering of stock, particularly in western areas of the State, and the use of TSRs as flood refuges, particularly in the coastal areas of the State. The ratepayer beneficiaries of such TSR services appear less predictable and less concentrated than those for TSR grazing services and so the discretionary maintenance of TSRs for these purposes may be justified if supported by ratepayers.

While the Review Group accepts that some of these non-fodder related TSR services may be of value to a majority of ratepayers in certain boards, it does not believe that this, in itself, justifies the non-competitive allocation of the resource or cross-subsidisation of TSR maintenance by all ratepayers. The Review Group therefore believes that individual TSRs that have been retained for productive purposes should be managed on a cost recovery basis, where possible, and that cross subsidisation should only occur where a board can demonstrate that the majority of ratepayers support the TSR's retention.

The Review Group considers that the present system of setting stock walking and grazing permit fees by regulation prevents boards from pursuing full cost recovery. The Review Group therefore concluded that boards should be given greater discretion in relation to the setting of such fees so that the amount charged can better correspond to the productive value of the service provided,

Cultural values

Many TSRs are used by campers, bushwalkers, bird watchers and other recreational users. Others contain aboriginal sites and historic relics. Numerous submissions pointed out the social heritage values flowing from the 'existence' of TSRs.

The Review Group recognised that some TSRs have social, historic or cultural significance to the community and acknowledged the many respondents and public meeting attendees that support the retention of TSRs for these reasons. The Review Group concluded that factors such as these support the retention of public ownership and the ongoing development and implementation of particular management strategies. The Review Group further concluded that the ongoing funding of TSRs with certain cultural or historic significance by a subset of the community – ratepayers – may impose an inappropriate cost on board ratepayers who are effectively subsidising the supply of these public goods (cultural services) for the broader community. The provision of cultural services through TSRs is not proposed as a core activity of boards and therefore an argument exists for them to be funded outside of the Act, although boards could retain management responsibility for TSR maintenance through management agreements with relevant public entities.

Environmental Services

The Review Group received many submissions supporting the retention of TSRs on the basis of their environmental services to the community. The Review Group considers that such arguments are analogous to those made in relation to cultural services in that the conservation

of biodiversity could be seen to benefit the broader community. As such, it provides a basis for some degree of public funding, rather than solely being funded by board ratepayers.

There are, however, some caveats to this position as it is difficult to identify those who benefit from biodiversity conservation on TSRs. At a local level, farmers may benefit from biodiversity preservation on TSRs through the provision of shelter, reduced wind erosion, positive ground water effects and the like. Local communities may also benefit in some instances through recreation opportunities and tourism. The broader NSW community may benefit in instances where truly 'scarce' biodiversity values, as opposed to locally scarce values, are retained.

The issue of who should pay for biodiversity conservation on TSRs is, therefore, complex. Where TSRs contain truly 'scarce' biodiversity values, a stronger case can be mounted for the preservation of these values in the public interest. This may give rise, in some instances, to a case for direct government control and associated funding, which in turn raises the issue of whether boards are the appropriate management authority. The Review Group concluded that an alternative authority, with singularly focused objectives on managing scarce environmental values, may be more appropriate for some TSRs. Boards could then be relieved of this funding burden, although innovative arrangements may be negotiable for some TSRs that possess biodiversity and grazing values whereby boards act, for a fee, as the managing agent.

Revocation of TSRs

The Review Group received many submissions outlining numerous objections to the further divesting of TSRs. Most of these were usually on environmental conservation grounds, but some also expressed concern that the entities assuming control of revoked TSRs would not maintain them sufficiently and that they may become havens for weeds and vertebrate pests, thereby negatively impacting on neighbouring properties. The Review Group believes that, while such an outcome would be unfortunate for individual landholders adjacent to revoked TSRs, such concerns do not constitute a valid justification for the continued cross-subsidisation of TSR maintenance by the majority of ratepayers.

State Council and some boards have also claimed that approval to revoke TSRs has often been refused by the responsible Minister in recent years, rendering boards responsible for the maintenance of TSRs that the board itself does not wish to retain. The Review Group concluded that this practice, if it has occurred, should not continue as it restricts the ability of boards to focus on their core business.

Review Group Conclusions

The Act's provisions in relation to TSRs appear to impose on boards the competing objectives of managing TSRs for the benefit of stock, as well as for the preservation of biodiversity. In addition, boards may be forced to retain managerial and financial responsibility for TSRs that they no longer wish to manage. The Review Group therefore concluded that while the Act already provides for the revocation of TSRs, consideration should be given to streamlining this process and, in instances where Government does not support a particular revocation, consideration could be given to establishing a mechanism whereby the reasons for this decision are made transparent. Where it is found by Government that legitimate environmental or cultural values exist which are of significance to the State, but Government elects not to revoke the TSR, a case would be established for some form of management and funding agreement.

The Review Group also made the suggestion that State Council could develop guidelines in conjunction with relevant government agencies that better and more consistently enable boards to identify TSRs with the potential to provide significant public benefits.

With respect to revocation of TSRs, the Review Group found that TSRs continue to be used for travelling stock in certain parts of the State. While the efficiency of walking stock as a means of transport is questionable, the Review Group concluded that this business option should remain open to boards in areas where significant use is made of TSRs for this purpose. It therefore believes that State Council should be given the power of veto over any board's decision to revoke a TSR on the grounds that such an action would adversely affect the continuity of the TSR network relied upon in other boards.

The Review Group found that there is no market failure justification for cross-subsidisation of TSR grazing or apiarist access and therefore concluded that beneficiary pays principles should apply. Furthermore, given that the market value of the TSR resource varies markedly across geographic locations and time, boards should be empowered to set their own permit fee rates for the various forms of TSR use so that retained TSRs can be managed on a full cost recovery basis. While the Review Group believes that allowing price competition for grazing and apiary permits, through tendering for example, would reduce compliance and enforcement costs and maximise TSR revenue, the more ad hoc and shorter-term nature of demand for walking stock permits means that the transaction costs involved in competitive tendering for permits may rule out such an approach to their pricing. Nevertheless, boards should be free to set their walking permit fees flexibly and in a way that recovers costs.

State Council recently commissioned a report titled Strategic Management of TSRs for Conservation that contains a decision tree framework to assist boards in evaluating and managing TSRs based on their core business and conservation values, as well as their ability to be self-funding. State Council stated in its submission that it anticipated that boards would use this framework to refresh their TSR management plans. The Review Group considers that the adoption of the above framework in conjunction with the recommendations below would enhance the effectiveness of board TSR management.

Recommendation 9: The Review Group recommends amending the Act to revise the fee structure to give boards greater flexibility to recover the costs of managing TSRs.

Recommendation 10: The Review Group recommends that the Act be amended to streamline the process by which the withdrawal of the management of TSRs from boards occurs.

Recommendation 11: The Review Group recommends that the NSW Government consider alternative sources of funding for the management of TSRs for which revocation is not approved and which are being retained for non-stock purposes.

Recommendation 12: The Review Group recommends that, where TSRs are found to contain scarce cultural or biodiversity values, consideration be given to implementing appropriate management and funding regimes.

5: ADMINISTRATION AND ACCOUNTABILITY

5.1 BACKGROUND

The Review Group's public consultations identified a number of administrative areas of concern held by stakeholders, including external accountability requirements under the *Public Finance and Audit Act 1983* and other statutory obligations and the internal accountability mechanisms contained in the Act, including board accountability to State Council.

The accountability measures were considered relevant to the Review on the basis that stakeholder reporting, whether that be to ratepayers or government, provides a 'check' on the efficient implementation of regulatory provisions.

Establishment of Boards and State Council

Section 5 of the Act provides for the proclamation of Rural Lands Protection Districts by the Governor and section 37 requires that a board be constituted for each District. Section 14 requires that a State Conference of boards be convened each year. Section 19 of the Act establishes the State Council of Rural Lands Protection Boards as a corporation.

The functions of a board are described in section 42 and include:

- functions conferred on it by the Act or any other act;
- any function with respect to animal health or the protection of rural lands referred to in the Act or the Regulations not specifically conferred on another entity;
- the administration of drought or disaster relief schemes within its district;
- the provision of any service on behalf of or to a public authority; and
- any functions delegated to it by the Minister (with the concurrence of State Council) under any other Act prescribed by the regulations (including the Stock Diseases Act 1923).

Section 42 also has a reference to "the doing of anything necessary, or supplemental or incidental to, the exercise of its functions".

Organisational Relationships

The Act is very prescriptive of the nature of the relationships between Rural Lands Protection Boards, State Council and the Annual State Conference of Boards. For instance;

- State Council is accountable to the Minister in that section 10 states that State Council is "in the exercise of its functions, subject to the control and direction of the Minister";
- State Council is also accountable to State Conference in that section 11 makes State Council responsible for the implementation by boards of policies determined at State Conferences or by postal ballot;
- boards are accountable to State Council because section 12 requires a board to comply with any guidelines issued by State Council in respect of any board function under section 25. These guidelines are in reality "Directions";

- boards are bound by State Conference policies, as section 17 empowers a State Conference to pass resolutions on the “primary policies to guide the State Council in carrying out its functions” and the State Council’s budget. Section 17 also permits the Minister to place a specific matter on the Agenda of State Conference for determination;
- section 24 gives State Council the power to determine the conditions of employment of board employees (in accordance with other legislation) and exclusive responsibility for entering into industrial agreements on behalf of boards;
- section 27 empowers State Council to request a board to take action with respect to the carrying out of any board function;
- section 29 provides for State Council to take action itself if a board has failed to comply with its request, including (via section 218) requesting the Minister to remove all directors of a board and appoint an administrator; and
- section 44 requires all boards to prepare a function management plan in respect of TSRs under their care and in respect of any of its other functions if requested to do so by State Council.

Hence, while boards cannot be directed by the Minister as there is no power in the Act for the Minister to direct boards, the Minister can direct State Council to direct boards through the combination of sections 10, 12 and 25.

The Act also prescribes the relationships between the above entities and the Department and Minister. For instance:

- section 13 requires State Council to enter into a memorandum of understanding with the Director-General regarding the exercise of any function relating to animal health; and
- section 24 lists one of State Council’s functions as “carrying out such other functions as may be imposed on it by the Minister”.

Hence, State Council must do as the Minister directs it and boards must do as the State Council directs them to do.

Accountability Requirements

Boards and State Council are subject to significant accountability requirements. First, there are the Act’s provisions regarding audit, reporting and planning, including the following:

- a requirement for boards to give State Council any information about their operations that the State Council requests (section 11(2));
- boards must prepare an annual report concerning their activities during the previous year in accordance with the guidelines and submit it to the State Council (section 36(1));
- Section 36(3) requires State Council to prepare an annual report under the *Annual Reports (Statutory Bodies) Act 1984*, including details submitted to it by boards under section 36(1);
- sections 34 and 54 require State Council and individual boards, respectively, to submit to the Minister their financial statements for a financial year and the opinion of the

Auditor-General under the *Public Finance and Audit Act 1983* within 6 weeks after the Auditor-General presents them to State Council or the board in question;

- sections 35 and 55 provide for the Minister to require the Auditor-General to conduct a performance audit under the *Public Finance and Audit Act 1983* of all or any activities of the State Council or an individual board;
- boards are required to prepare and submit to State Council a draft function management plan for all travelling stock routes under their management and for any of their other functions if requested to do so by State Council (sections 44 to 49); and
- section 56 requires boards to make publicly available numerous board documents, including annual reports, financial statements and Auditor-General opinion, reports on performance audits, minutes of board meetings (other than those for a meeting or part of a meeting that is closed to the public) and function management plans.

With respect to the audit responsibilities of boards and State Council, section 41A of the *Public Finance and Audit Act 1983* requires State Council and boards to, within 6 weeks after the end of its financial year, cause to be made out:

- a statement of financial performance for the last financial year, being a statement of operations account that presents a true and fair view of the statement of operations for that financial year;
- a statement of financial position as at the end of that financial year, being a statement of financial position that presents a true and fair view of the state of its affairs as at the end of that financial year;
- a statement of cash flows; and
- proper and adequate disclosure notes.

In addition to these accountability provisions, 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.

In examining the accountability provisions of the Act, the Review Group identified two issues that are of concern to stakeholders. The first is the perceived administrative compliance burden faced by boards in meeting the requirements of the Act. The second is the perceived lack of board accountability to ratepayers. This Chapter examines each of these issues separately.

5.2 ACCOUNTING AND REPORTING

Submissions

Around 11 per cent of all feedback received by the Review Group was related to the regulatory compliance responsibilities of the board system, with 99 points relating to this issue being raised in submissions. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

Supporting Increased Accountability:

- a) Boards should be removed and functions transferred to government (25);
- b) Many of the boards functions should be left to the competitive market (or fee for service) (15);
- c) There are not enough accountability procedures in place (friction exists between staff and directors, directors making bad decisions) (12); and
- d) Many problems related to accountability compliance are due to unsuitable staff being employed (7).

Supporting a Reduction of Administration Requirements:

- e) There is currently over-administration (with no increase in productivity) (18);
- f) The Act has failed (minimum ratepayers' services have decreased at the expense of increased administration) (11);
- g) Boards should be given more autonomy - Director autonomy is decreasing (10);
- h) Board compliance with administrative / accountability requirements, such as the PF&A Act, significantly reduces front line service provision (9);
- e) State Council should have the power to impose the appropriate accountability procedures on boards - boards should not be subject to the PF&A Act etc (6);
- e) Currently too much Government regulation (6); and
- f) The Auditor-General should not be involved in board audits (should be left to local auditors) (3).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

Numerous submissions criticised the perceived increased level of board administration requirements imposed by the Act relative to the previous Act and how this has led to a reduced level of service to ratepayers. These submissions (predominately from boards) suggest that the increase in administration has reduced the productivity of boards and the level of service provision. Ultimately they suggest that boards are over administered and should be government funded to cover the extra expense.

Significant feedback was also received on the related issue of the operational powers exercised by State Council over boards under the Act. It was often said that boards should be in a position to provide local solutions to local problems, but many stakeholders complained that boards were hamstrung by the lack of delegation to boards provided in the Act. Examples of the wide range of functions not considered to be adequately delegated are:

- the ability of boards to revoke TSRs that Directors did not consider worth maintaining;
- board discretion to determine pay rates for staff, particularly professional officers such as District Veterinarians, whose remuneration was said to be well below those in private practice ; and
- the ability of boards to waive rates imposed on ratepayers who may have overlooked submitting a Land and Sock Return due to illness or prolonged absence – such waivers must be granted by State Council.

Discussion and Conclusions

With respect to the present external board accountability arrangements, the Review Group is sympathetic to complaints regarding the compliance burden imposed on individual boards in

satisfying the requirements of the *Public Finance and Audit Act 1983* and the *Annual Reports (Statutory Bodies) Act 1984*. However, the Review Group also understands the need for boards, as statutory authorities, to properly account to stakeholders, such as ratepayers and government, for the appropriate implementation of regulatory provisions and associated expenditures.

The Review Group analysed the increase in audit and accounting costs for each board between 2001 and 2002, with the results shown in Table 5.1. While the compliance burden was shown to vary between boards, the Review Group acknowledged that overall audit and accounting costs had increased by 100 per cent and that those boards with relatively low numbers of ratepayers, such as those in the Western Division, were the most adversely affected.

The Review Group also undertook a comparison of the compliance burden borne by boards relative to that borne by various other State statutory authorities, as shown in Table 5.2. While the overall audit costs incurred by the board system does not appear to be disproportionate compared to the other selected statutory authorities, it should be noted that the authorities are listed in Table 5.2 in ascending order of expenditure and that a distinct negative relationship between income and audit fees as a percentage of expenditure is apparent. Taking this trend into consideration, it was found that the board system is incurring unusually high audit costs for an entity of its size.

Furthermore, a proportion of boards are particularly adversely affected by the change in audit requirements. For example, total audit and accounting costs increased by over 300 per cent for both Balranald and Wilcannia between 2001 and 2002, and these costs comprised 3.2 and 7.4 per cent of total 2002 expenditure for these boards, respectively.

Table 5.1: Audit and Accounting Costs by Board 2001 and 2002

Board	Audit Fees	Accounting Fees	AG Audit Fees	Accounting Fees	Increase in Audit	Increase in Account.	Increase in Both
	2001	2001	2002	2002	\$ %	%	%
	\$	\$	\$	\$			
Armidale	3500		7000	7000	100%	n/a	300%
Balranald	1450		5457	900	276%	n/a	338%
Bombala	4500	5145	4422	0	-2%	-100%	-54%
Bourke	2000	1300	5457	4500	173%	246%	202%
Braidwood	3232	392	4422	3000	37%	665%	105%
Brewarrina	2000	500	5457	4500	173%	800%	298%
Broken Hill	1985		5457	5455	175%	n/a	450%
Casino	3700	1300	6638	1500	79%	15%	63%
Central Tablelands	4250	1000	8750	3516	106%	252%	134%
Cobar	1000	2200	5457	4500	446%	105%	211%
Condobolin	2600	800	7650	5500	194%	588%	287%
Cooma	5000	200	4422	1500	-12%	650%	14%
Coonabarabran	1930	330	5850	3000	203%	809%	292%
Coonamble	3000	3331	7875	3700	163%	11%	83%
Dubbo	3850	2676	7875	1000	105%	-63%	36%
Forbes	3075	1700	8100	500	163%	-71%	80%
Gloucester	2500	500	4191	3500	68%	600%	156%
Goulburn	3500	3675	4422	13560	26%	269%	151%
Grafton	3400	1090	6638	650	95%	-40%	62%
Gundagai	5020	3951	5344	2200	6%	-44%	-16%
Hay	3775		5175	4400	37%	n/a	154%
Hillston	1800	1650	5457	7955	203%	382%	289%
Hume	3011		6188	2000	106%	n/a	172%
Hunter	5221		4191	800	-20%	n/a	-4%
Kempsey	3900	133	6638	3000	70%	2156%	139%
Maitland	3120	3035	3072	1500	-2%	-51%	-26%
Milparinka	865		5457	6000	531%	n/a	1225%
Molong	4500		7032	2800	56%	n/a	118%
Moree	3500	140	6638	7000	90%	4900%	275%
Moss Vale	7183	125	8000	3500	11%	2700%	57%
Mudgee-Merriwa	7500		4191	400	-44%	n/a	-39%
Murray	5850		5569	1500	-5%	n/a	21%
Narrabri	2080	2060	6300	1500	203%	-27%	88%
Narrandera	3690	1560	4950	2800	34%	79%	48%
Northern New England	4800		6300	2800	31%	n/a	90%
Northern Slopes	6900	3220	6638	2500	-4%	-22%	-10%
Nyngan	4400	3150	8438	2000	92%	-37%	38%
Riverina	2640		5907	1500	124%	n/a	181%
South Coast	4000	100	4422	4500	11%	4400%	118%
Tamworth	2517	522	8200	2500	226%	379%	252%
Tweed-Lismore	3350	1150	7290	1500	118%	30%	95%
Wagga	4853		5907	1000	22%	n/a	42%
Walgett	1575	3281	7290	5000	363%	52%	153%
Wanaaring	3000	2000	5457	9500	82%	375%	199%
Wentworth	2000	525	5457	2100	173%	300%	199%
Wilcannia	2300		5457	4000	137%	n/a	311%
Yass	2700	1600	4422	5000	64%	213%	119%
Young	5255		4422	0	-16%	n/a	-16%
State Council	2550	2200	9500	0	273%	-100%	100%
Totals	170327	56541	294849	159036	73%	181%	100%

Table 5.2: Comparison of Audit Costs across Selected NSW Statutory Authorities

	Banana NSW	Riverina Citrus	Wine Grapes Marketing Board	Murray Valley Citrus Marketing Board	Rice Marketing Board	Rural Lands Protection Boards (Total)
Reporting year	2002-03	2002-03	2002-03	2002-03	2002-03	2002 (Calendar)
Total Income (\$)	563,000	693,336	714,663	1,302,271	6,821,000	40,842,017
Total Expenditure (\$)	557,000	608,083	645,518	1,432,147	7,990,000	34,827,967
Surplus/(Deficit) (\$)	6,000	85,253	69,145	-129,876	-1,169,000	6,014,049
Audit Costs (\$)	14,000	9,500	10,100	20,415	21,000	449,000
Compliance Cost as % of Total Expenditure	2.5%	1.6%	1.6%	1.4%	0.3%	1.3%

In light of these analyses, and the fact that the Audit Office has now conducted two audits of the board system in accordance with the PF&A Act without any adverse findings, the Review Group concluded that it was appropriate, as part of this Review, to identify alternative accountability requirements for further consideration by the NSW Government.

In its submission, State Council proposed one such alternative whereby the Minister would appoint a State Council Audit Committee comprising a representative of the Auditor-General, a registered Company Auditor and a representative of the State Council. This committee would:

- *approve the appointment of board auditors, determine the appropriate contractual arrangement between the board and the board auditor, monitor the performance of the board auditor, review the board annual financial statements, review the board audit report, and review the board management letter;*
- *make recommendations to State Council on specific actions to be taken with individual boards, groups of boards or all boards;*
- *report to the Minister for Agriculture on the performance of board audits and in so doing include details of reports submitted late, qualified, nature of qualification, where no opinion is given, and any other significant findings of the Committee; and*
- *may also recommend to the Minister, boards whose subsequent audit should be conducted by the Auditor General;*

Under the State Council proposal, boards would also have until 30 March each year to submit their financial statements to their appointed auditor. State Council would also have alternative auditing arrangements.

Recommendation 13: The Review Group recommends removing boards from the requirements of the PF&A Act and that other appropriate cost effective audit arrangements be put in place to ensure compliance with Australian accounting standards.

Recommendation 14: The Review Group also recommends extending the period of time between the end of the board system's reporting year and its annual report submission deadline from four months to eight months, meaning that the Report would be due on 31 August each year.

While board directors can shape administrative policy associated with their given functions via resolutions passed at State Conference, there is no provision in the Act for board accountability to ratepayers other than periodic election of Directors by ratepayers and the availability of documents. In practice, however, ratepayers can attend open board meetings and have input into the planning process for both travelling stock reserves and pest animal control.

The Review Group received much feedback in relation to board accountability to ratepayers. While related to some of the points made under the external accountability section, the ratepayer accountability issue relates particularly to the ability, or otherwise, of boards to

provide services desired by ratepayers. Such services are often not those explicitly sanctioned by the Act.

Submissions

Around 15 per cent of all feedback received by the Review Group was related to board accountability to ratepayers, with 145 points relating to this issue being raised in submissions. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

- a) Most ratepayers do not get value for money from boards, or they get nothing. (especially minimum ratepayers) (38);
- b) Minimum ratepayers are unsatisfied (many minimum ratepayers have no animals and therefore get little benefit from rates) (30);
- c) Boards provide excellent service to landholders (gaining drought assistance, water subsidies) (18);
- d) Board functions are too restricted - they need to be able to customise their services to meet ratepayer needs (9);
- e) Minimum ratepayers would complain less if boards explained the benefits of the board system to them (5); and
- f) My complaints to my board are not taken seriously (5).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

A small number of respondents were in favour of the retention of all board functions without alteration. These submissions (primarily from boards) suggested that boards provide excellent service to landholders with a high level of accountability to their ratepayers.

There were many submissions addressing the perceived lack of accountability of boards to their ratepayers. The Review Group received significant feedback from certain groups of ratepayers, such as minimum rate payers, suggesting that they did not believe that they were receiving 'value for money' for the rates they paid. The Review Group also received feedback from a large number of farmers and minimum ratepayers concerning a perceived lack of accountability of boards to ratepayers, particularly in relation to boards' responsiveness in providing services demanded by ratepayers.

While much of this feedback was of a critical nature, with many respondents questioning the value of board activities to themselves, some boards received praise for their innovative introduction of non-traditional board services, such as fencing field days. A common theme, however, of this feedback was that ratepayer needs varied widely across the State and that the present centralised and relatively autocratic method of determining what should be discretionary board service provision was unsatisfactory.

It was also brought to the Review Group's attention that some ratepayers are not satisfied with the way in which board elections are publicised. Specifically, it is felt by some that merely displaying a notice in a board office, as is provided for under the Rural Lands Protection (General) Regulation 2001, does not constitute sufficient notice to ratepayers that an election will be held.

Finally, while many boards submitted that their ability to tailor their services to their

ratepayers' needs were stymied by a lack of delegation by the Minister or State Council, board Directors themselves were accused of not adequately delegating minor financial decisions to their Managers or of routinely interfering in operational decisions made by their staff.

Discussion and Conclusions

The Review Group received much feedback, particularly at its public meetings, in relation to the delegation of responsibilities to boards under the Act. Most of this feedback was critical of the lack of autonomy given to boards to run their own affairs, particularly in relation to rates and minimum rateable areas of land, TSR revocation and accountability reporting requirements. The Review Group has dealt with the first two of these issues elsewhere in this Report, but makes the general observation here that as part of this Review, the primary objective of boards have been identified, which provides the basis for boards to focus on their primary responsibilities.

From an examination of the Act, there appears to be no provision that allows boards to provide services not explicitly described in the Act. Therefore all services provided by boards should be subject to the overriding principle of pursuit of the Act's objectives. This caveat can be viewed as protecting ratepayers from minority groups that might endeavour to obtain services from boards that are subsidised by ratepayers more generally.

With respect to the overall acceptance of boards by ratepayers, the Review Group acknowledged the numerous complaints made against both individual boards and the board system generally. Many critics expressed anger at a perceived lack of value for money arising from board activity. The Review Group considered that this reaction is understandable and could be expected from a small number of ratepayers given the targeted nature of board activities and the disparate ratepayer base. However, the Review Group anticipates that the board system will continue to receive criticism from constituents unless ratepayers are effectively informed about the Act's objectives and the benefits that board services provide.

The Review Group therefore concluded that improved clarity in the Act regarding its objectives will enable boards to more clearly identify services able to be provided to ratepayers. This change, in conjunction with enhanced board communication strategies with respect to ratepayers, could mitigate the hostility that some ratepayers feel towards boards.

With respect to the present system of giving notice of board elections, Schedule 4, part 2 (4)(4) of the Rural Lands Protection (General) Regulation 2001 requires:

The returning officer must give notice that a directors election is to be held by one or more of the following means:

- (a) display of a notice in a prominent place in the office of the board concerned or on a community notice board at a public place within the district,
- (b) causing notice to be published:
 - (i) in at least one newspaper circulating generally throughout New South Wales, or
 - (ii) in one or more local newspapers that, individually or collectively, circulate generally throughout the area of the board concerned,
- (c) giving written notice to each person entitled to vote at the election.

The Review Group considers that the display of a notice only is not, by itself, likely to cause an acceptable number of ratepayers to become aware that an election is to be held. It therefore found that Schedule 4, part 2 (4)(4) should be remade to require the returning officer to give notice of the election by two, rather than one, or more of the methods listed.

Recommendation 15: The Review Group recommends that State Council develops communication guidelines for implementation by boards to increase ratepayer awareness of the Act's objectives and the benefits that board services provide. The guidelines could include a compulsory requirement that each board attach to each ratepayer rate notice a short report describing the board's achievements over the last year and its plans for the next year.

Recommendation 16: The Review Group recommends that Schedule 4, part 2 (4)(4) of the Rural Lands Protection (General) Regulation 2001 be remade to require the returning officer to give notice of an election by two or more of the methods listed.

6: FUNDING OF THE BOARD SYSTEM

In this chapter the funding of the board system and the State Council of Rural Lands Protection Boards are considered. The board system is primarily funded through rate payers, while State Government funding has been provided to part-fund State Council. This chapter focuses on the adequacy of the rating system and possible options for the future funding of State Council are identified.

6.1 RATING

Background

The raising of compulsory rates from ratepayers for the provision of board services is achieved through the interaction of two factors – the rating mechanism and the determination of rateable land.

The Rating Mechanism

Section 62 of the Act requires boards to levy two rates – a general rate on all rateable land in its district and an animal health rate. Boards are also permitted to levy special purpose rates. Clause 7 of the Regulation requires each board to set its general, animal health and any special purpose rates by resolution in the form of an amount payable per stock unit of assessed carrying capacity. The Regulations also specify the minimum rateable landholding area and the minimum general and animal health rates applicable to each district. However, animal health rates are only applied if at least 50 stock units were held on the landholding on 30 June of the year for which the rate applies or if no annual return has been submitted by the landholder.

Minimum Rateable Areas of Land

The minimum rateable area of land for each District is presently prescribed in the Regulation. While boards and State Council can make recommendations regarding the minimum rateable area of land that applies in a particular District, the final decision rests with the Minister.

Submissions

With around 20 per cent of all feedback relating to the rating system and related financial aspects of the board system, finance was the second most commented on topic, with 183 points relating to this issue being raised in submissions. Some of the most common of these points raised (together with the number of times each point was raised among the 198 submissions received) are listed below:

Changing Rating Mechanism:

- a) The Assessed Carrying Capacity (ACC) is not an efficient mechanism for calculating Rate level (eg, due to land changes over time - Degradation) (24);
- b) "Assessed carrying capacity" (ACC) is nonsense - animal owners should be rated per head of stock (15);
- c) MIA / Safefood levy should not be collected (14);

- d) If boards provide a community service then they should be paid for from Consolidated Revenue (11);
- e) Boards should rate according to Area (rather than ACC) (8);
- f) There should be no exemptions from board rates such as canegrowers, National Parks etc as all landholders contribute weed/pest problems and benefit from core functions (8);
- g) Penalty for not paying rates is too high (eg Property Sale) (8);
- h) The penalty for non-lodgement of L&S Returns is too high (8);
- i) Government should be paying for board functions that generate public benefit (7);
- j) There should be a standard base rate to cover administration - no "minimum" rate (6);
- k) The minimum rateable area should be much lower than at present (6);
- l) Boards should be allowed to exercise judgement as to the minimum ratepayers (rather than the 10ha / 50 DSE limit set now); (5); and
- m) All rural property owners should be rated - no more cross-subsidisation (4).

Support for the present rating system:

- n) Boards should stick with carrying capacity (ACC) as the basis for rates. (Rates should not be based on land value) (11); and
- o) Minimum ratepayers generate a lot of animal health, pest and weed problems and so should pay rates (10).

Some specific, yet representative comments from submissions are reproduced in Appendix 4.

The issues raised in submissions broadly fell into two categories, those in support of the existing arrangements (of which there were only a few submissions) and those supporting a change in the existing arrangements, including the rating mechanism, the rateable area and the possibility for rating exemption.

Submissions supporting the existing funding arrangements noted that the calculation of rating levels based on notional carrying capacity was not the most ideal arrangement, but the best method to use when compared to the alternatives. Not only this, but these submissions supported the continued contribution by 'minimum ratepayers', stating that they contribute to animal health, pest and weed problems and so should continue to pay rates at the existing levels.

The Rating Mechanism

The use of notional carrying capacity as the basis for board revenue is a major source of concern for many ratepayers. While some respondents supported the present system of rate calculation on the grounds that it is an equitable proxy for board services provided, approximately 20 per cent of all submissions received by the Review Group suggested that there be a change in the way boards fund their activities. The levying of rates based on landholding size or value or the number of stock run were the most common suggestions.

Many respondents criticised the perceived inequity arising from the fact that specialist croppers with relative small numbers of stock were still liable for the animal health rate based on their entire notional carrying capacity. Similarly, the use of general or special purpose rates to fund TSR maintenance was seen as inequitable due to the fact that many croppers ran no stock at all and so could not expect to benefit from TSR maintenance, and neither would many stock owners who haven't and don't plan to use TSRs.

The Review Group also received feedback regarding the use of minimum rates. It was felt by some that the term “minimum ratepayer” not only demeaned the role played by owners of small landholdings in the board system, but that the imposition of a minimum rate was inequitable as it meant that a minimum ratepayer might pay only marginally less than a much larger landholder. It was suggested that a base charge be used instead of a minimum rate, where everybody pays the base rate plus a general rate that is related to the magnitude of their notional carrying capacity.

State Council’s submission to the Review contained a preliminary outline of an alternative area-based rating system designed to address some of the shortcomings described above. While a fully-worked model was not available for the Review Group to consider, the proposal revolved around the abolition of minimum rates and the imposition of a general rate that combines a base charge on all ratepayers with a per-hectare rate.

Under the proposal, the base charge component is designed to cover the administrative costs incurred by boards in respect of each ratepayer. These costs are fixed in that they do not vary with the size of the landholding, and include the maintenance of the ratepayer record and a contribution to the cost of managing the rating system, such as a proportion of management salary, office maintenance etc. The flat per hectare rate would then take into account the linear nature of the benefits that accrue to landholders as a result of those activities that boards fund through the general rate - primarily pest control – which tend to directly correspond to the size of landholdings rather than the carrying capacity of landholdings.

The area-based rating concept may address the following issues associated with the present assessed carrying capacity rating system:

- Equity – where occupiers of better quality land pay more despite the fact that it is often the case that pests, such as rabbits, inhabit poorer quality or inaccessible areas with a generally lower than average carrying capacity;
- Perception - landholders that do not run stock often have difficulty in understanding the concept of carrying capacity and do not appreciate the reasons why the general rate is based on carrying capacity. The present rate calculation method reinforces the perception that board services are too focussed on the livestock industry; and
- Administration – the administrative burden arising from the present need for all properties to have a carrying capacity re-assessment every five years would be eased, as carrying capacity assessments on properties with no stock would not be required.

State Council is also investigating changes to the animal health rate which, although still based on assessed carrying capacity, could incorporate:

- a base charge to cover the administrative and “on-call” costs of the District Veterinarian;
- simplification of the carrying capacity assessment process by basing rates on the typical carrying capacities of sub-board areas rather than that of each property; and
- allowing boards to grant rate discounts for areas of a property that are cropped.

Minimum Rateable Areas of Land

The Review Group received much feedback on the minimum rateable area of land presently prescribed in the Regulation. It is widely believed by both minimum and general ratepayers

that existing minimum rateable areas of land are too large to ensure that all landholders that benefit from board services contribute towards the cost of those services. It has also been suggested that all rural land, however defined, be subject to rating, because diseases and pests are not distributed according to landholding size.

Exemptions

Part 7 of the Act exempts the Crown from paying board rates whereas clause 14 of the Regulation lists numerous other exemptions from board rates as provided for under section 244 of the Act. These exemptions include parts of a holding used as a motel, caravan park, cemetery, golf course, racecourse, showground, industrial area, rifle range and to grow sugar cane, as well as that occupied by a board or local council.

The Review Group received numerous complaints about the granting of exemptions to the owners of certain types of land. Sugar cane growers and various forms of Crown land, such as National Parks and state forests, were the most commonly cited examples. Respondents argue that these lands are a particular problem with respect to pest animal, insect and weed spill-overs. They also point out that any justification for current exemptions on the basis of non-use of board services could equally be applied to many cropping enterprises, particularly horticultural enterprises. Hence, current exemptions are seen as inefficient, inequitable and often politically motivated.

Discussion and Conclusions

The Rating Mechanism

The Review Group accepted that the present rating system contains certain shortcomings that can lead to inequitable outcomes between ratepayers and add to the administrative costs of boards through the need for carrying capacity reviews every five years. The Review Group considers that the alternative rating concept proposed by State Council is a potentially constructive reform given the constitutional constraints associated with fund raising under state legislation.

Recommendation 17: The Review Group recommends that prior to further work being undertaken on the State Council rating concept, or any further option considered to have merit, advice be obtained on their constitutional validity, and if favourable, State Council undertake further detailed quantitative analysis and consultation to determine whether such reforms would reduce the equity and administrative shortcomings of the current rating system.

Minimum Rateable Areas of Land

The Review Group concurred with the widely held view that in many cases existing minimum rateable areas of land may be too large to ensure that all landholders that benefit from board services contribute towards the cost of those services. However, it also recognised that administration costs associated with rating smaller holdings need to be considered.

The Review Group did not consider that a specific State-wide minimum rateable area of land would sufficiently address the wide variances in landholding patterns evident across the State. It therefore concluded that a mechanism that allows each board to determine their own minimum rateable areas of land, subject to approval from State Council, may be most effective in resolving the aforementioned free-riding and spill-over problems.

Recommendation 18: The Review Group recommends that State Council, on behalf of boards, submits recommendations to the Minister for the amendment of the prescribed minimum rateable areas and that the Regulations be amended to abolish the requirement for all rateable land to have a notional carrying capacity of at least 50 stock units.

6.2 FUNDING OF THE STATE COUNCIL OF RURAL LANDS PROTECTION BOARDS

Introduction

Uncertainty associated with the funding arrangements which apply to State Council of Rural Lands Protection Boards was an issue identified in submissions to the Review, particularly in the submission provided by State Council.

Given that funding is a key issue with respect to State Council's role in ensuring the efficient and coordinated functioning of the board system, various funding options are identified in this section for further consideration by the NSW Government.

Background

State Council

The State Council of Rural Lands Protection Boards was established with the commencement of certain parts of the *Rural Lands Protection Act 1998* in June 2001 and is responsible for the coordination and implementation of state wide policies as determined by State Conference.

State Council took over from the former body known as the State Council of the Rural Lands Protection Boards Association, which acted as the executive body of the board system. The former body was, in effect, disbanded with the establishment of the new State Council.

The functions of the State Council are defined under Section 24 of the Act and relate to coordination and implementation of State-wide policies, monitoring of the implementation of function management plans, entering into arrangements on behalf of boards with other public authorities, ensuring that boards carry out their accounting obligations, entering into industrial agreements on behalf of boards, provision of information in relation to the functions, policies and procedures of boards, and the provision of training for staff and directors. In addition, State Council has specific powers to issue directives to boards.

State Council has additional functions such as preparing annual reports on behalf of the board system under the provisions of the *Annual Reports (Statutory Bodies) Act 1983*, and the organisation and conduct of the annual State Conference of Boards.

The State Council is made up of nine members who are elected by boards organised into eight regions. All regions have one member with the exception of the Western Division, which has two members.

The State Council employs twelve equivalent full time positions, including a Chief Executive Officer. In recent times the number of State Council employees has increased due to factors

such as the increased audit and reporting requirements associated with boards being subject to the Public Finance and Audit Act and the decision by the board system to implement a State-wide information technology strategic plan.

The State Council vision is to 'Effectively govern and represent the interests of the Rural Lands Protection Board system'. This vision reflects the dual purposes of ensuring that the board system is operating efficiently and effectively, and that the interests of the board system are effectively represented.

Current Funding Arrangements

State Council is currently funded by way of rate payer levies pursuant to section 31 of the Act and funding provided by the NSW Government.

Section 31 of the Act provides for the funding of State Council as follows:

- (1) Each board must, within such period and in such manner as is determined by the State Council, pay a contribution each year to the State Council for the purpose of paying the salaries of the staff and other costs and expenses of the State Council.*
- (2) The contribution to be made by each board is to be calculated in the manner determined from time to time by resolution at State Conferences, or if regulations are made for the purposes of this subsection, as prescribed by the regulations.*

Funds raised for the purposes of State Council and in accordance with Section 31 of the Act were \$560,000 in 2001, and this contribution is set to increase to \$1.537 million in 2005. In 2001, this represented 1.9 per cent of total board income or \$4.31 per ratepayer, while in 2005 this contribution is expected to represent 4.7 per cent of total board income or \$11.82 per ratepayer.

State Council has also received two 5 year tranches of funding from the NSW Government for the periods 1997-2001 and 2001 to 2006. Since 2001, this amounted to \$425,000 per annum from the NSW Department of Primary Industries to help fund the activities of State Council. This arrangement, which is in place until June 2006, is not a requirement of the Act, but was funding provided to assist with the management of the new *Rural Lands Protection Act 1998*. In 2001, the NSW Government also provided a full-time staff member to assist State Council in the implementation of its functions, at an approximate cost of \$90,000. This arrangement was replaced in 2002 by a two day per week staffing contribution, which itself ceased in 2004.

Discussion and Conclusion

The State Council has emphasised that their primary concern in relation to their funding is the uncertainty of whether or not the NSW Government will continue to provide appropriate part-funding beyond June 2006 when the current funding arrangements terminate. State Council argues that funding from the NSW Government is justified on the basis of community benefits provided by the board system, such as benefits associated with disease control programs, the conservation management of TSRs, and compliance by boards with probity legislation such as the *Public Finance and Audit Act 1983* and the *Annual Reports (Statutory Bodies) Act 1983*.

Options that could be considered by the NSW Government include:

- A. Funding on a 1-5 year term, at a level determined to be appropriate, and with or without a requirement that certain outcomes defined by government need to be achieved;
- B. Recurrent funding (a commitment is given to provide funding on an ongoing basis) provided as payments for a 1-5 year period, at a level determined to be appropriate, and with or without certain outcomes defined by government needing to be achieved.

State Council's preferred approach is for the NSW Government to provide recurrent funding to avoid the uncertainty associated with funding terminating, as will be the case at the end of June 2006, and the associated difficulties this gives rise to such as the continuity of staff employment and service provision by State Council.

Recommendation 19: To ensure the efficient and effective functioning of State Council, the Review Group recommends that in relation to the government contribution to the funding of State Council, the NSW Government consider the various funding options identified by the Review Group including State Council's preferred model of recurrent grant funding.

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* (Commonwealth) 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

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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 Gundrumba
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)

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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

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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 Beach

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192	The Administrative Officer	Balranald RLPB	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 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.

APPENDIX 4: EXTRACTS FROM SUBMISSIONS BY TOPIC

A4.1 INTRODUCTION

The Review Group received 198 submissions and feedback from over one hundred public meeting attendees during the course of the Review. All of this feedback was summarised and categorised by broad topics. This information was used to produce Table A4.1, which shows the number and proportion of instances where each topic was raised during the consultation process. The Table demonstrates that while TSR management was the most commonly raised topic, no one topic dominated the feedback received by the Review Group, with the objectives of the Act, animal health activities, pest control, rating and compliance / accountability issues all receiving significant attention.

Table A4.1: Summary of Public Consultation – Instances Topic Categories Raised

Category	Submissions		Public Meetings		Total	
	Count	Percentage	Count	Percentage	Count	Percentage
Review processes	17	1.7%	4	0.8%	21	1.4%
Objectives	152	15.1%	82	17.3%	234	15.8%
Animal health	90	9.0%	51	10.7%	141	9.5%
Pest control	71	7.1%	12	2.5%	83	5.6%
TSRs	247	24.6%	78	16.4%	325	22.0%
Compliance	99	9.9%	63	13.3%	162	11.0%
Accountability to ratepayers	145	14.4%	73	15.4%	218	14.7%
Rating	183	18.2%	107	22.5%	290	19.6%
Miscellaneous	0	0.0%	5	1.1%	5	0.3%
	1004	100.0%	475	100.0%	1479	100.0%

The remainder of this Appendix is comprised of quotes reproduced from submissions. These are presented in sections mirroring the order of topics discussed in the Report text. These quotes are not intended to cover all issues raised but rather give a representative sample of the specific points raised with the Review Group. Summary commentary and more detailed quantitative analysis of the position taken by respondents on each issue raised is provided within the Report text.

A4.2 THE OBJECTIVES OF THE ACT

NSW Farmers' Association

The Association is concerned that the RLPB Act does not have a concise statement of its objective. The objective of the Act is drawn from both the long title of the Act and the second reading of the Act. Both of these passages are five or six lines long and descriptive in their nature.

Ninety percent of members surveyed supported the RLPB's having a concise statement of objective that focuses on the RLPB's core business and assists in determining their responsibilities.

An objective is also important so that RLPB's themselves can argue the boundaries of their charter. This will ensure that RLPB's do not introduce a 'grab bag' of activities that are not consistent with their core functions.

The Association suggests the following wording might be considered as an overall statement of objectives:

That Boards advance the viability of rural lands in NSW through providing protection from pests and animal diseases via a process determined by local representatives.

State Council of Rural Lands Protection Boards

The lack of a clear set of objectives in the Rural Lands Protection Act 1998 makes a review as to whether or not the objectives of the Act are being achieved difficult. As such extracts from Hansard during the passage of the Bill have been relied on to address this question.

It is recommended that a clearer statement of purpose be included within the Act to assist the Board system with overall direction and intent, and also to provide greater objectivity to future reviews.

Commonsense Lands Group

The RLP Act must have a purpose. No purpose now exists as a base for the Act.

Without a guiding purpose the Act cannot be meaningfully altered, nor can it be reasonably matched in any way with other NSW Acts, specifically the more recent CMA Act.

In its 1998 form the Act is a grab bag of functions – which are valuable, but which have not changed over the Act's history since 1832. The review faces the possibility of deleting one of these functions (TSRs).

The Act's name is at odds with these functions. It is not about protecting rural lands. It protects farmers against pest and animal health risks. The obvious non-sequitur between name and function is a basic reason behind the backlash from minimum ratepayers.

Landholders

The objectives of the Act are ill-defined, its terms largely invalid and its effects inequitable and of limited value to the broader community. ... It is recommended that, the RLP Act 1998 be repealed. (Hugh Ermacora, Mullumbimby – Petition from 185 land holders)

The Council and Boards should not have any functions other than those demonstrated to be necessary to produce a better result than the market would produce. (Patricia Barkley, Mulgoa)

The objectives of the Act should include: "...to ensure that TSRs are used in accordance with the principles of ecologically sustainable development.." (Robert A Boyd, Armidale)

Guyra Branch – NSW Farmers' Association

The committee believes that the Act does not clearly define its objectives. The main objective must be to enhance sustainable and profitable agricultural production, not to

impose costly and undue regulation on rural communities. Regulation objectives must become more precise and better reflect public benefit factors in funding arrangements.

Department of Environment and Conservation

The Act would be improved by the inclusion of specific objects, in particular, objects relating specifically to sustainable management of TSRs and the conservation of natural and cultural values on TSR's.

Birds Australia

Objectives of the Act should include environmental aspects such as preservation of habitats.

A4.3 ANIMAL HEALTH FUNCTIONS

NSW Farmers' Association

The Association agreed that livestock disease monitoring and control activities ... are essential and core business of the RLPBs. The Association holds strong views that RLPBs can and should provide expert advice and management in these areas. Part of this activity is the provision of veterinary services through the employment of District Veterinarians.

State Council of Rural Lands Protection Boards

State Council generally considers the Board animal health function is achieving the outcomes it believes the government intended to achieve in introducing the Act.

The cross subsidisation by Board ratepayers of the general public benefits must be carefully examined in line with who should pay for the operation of the animal health functions of the Board system.

The Act must provide a clear definition of the objectives of the animal health function of Boards

The Act must reflect the current chain of command in relation to animal health functions carried out by the Board system

RLPBs

The Animal Health rate should be triggered by the PIC and based on carrying capacity modified formula for the district as being tested by State Council. (Grafton RLPB)

NSW is the only state to have a District Veterinarian (DV) service, the DV is supported by well qualified Rangers, together they provide significant Animal health advice and support to landholders as evidenced by the work being undertaken on OJD, BJD and the successful control of Footrot and EBL. (Wagga Wagga RLPB)

Such vets are uniquely placed to aggregate regional animal disease data, analyses of which can suggest appropriate advisory messages. The absence (outside NSW) of sufficient personnel to undertake routine surveillance activities has contributed to tuberculosis affected QLD cattle travelling interstate, and ovine Johne's disease becoming established in parts of WA. (Nyngan Rural Lands Protection Board)

DV's should be regarded as an "insurance policy" for local livestock industries, involving disease control, prevention, surveillance, research, certification general advice ranging from pastures to animal welfare, exotic disease awareness and preparedness, zoonosis and chemical residues, to name but a few areas. (Allan Glassop, District Veterinerian)

Landholders

The value to the public has to be in the control of disease outbreaks in animals and to be able to act swiftly should the need arise. (R & S Gordon, Young)

Animal health services and control functions should be transferred to the Department of Agriculture and funded through general state government funding or industry levies or charges. (J Howell, Galston)

Regarding animal health control functions, the RLPB Act is addressing market failures and should continue. Benefits to the community clearly outweigh the costs. (Graham Bailey, Orange)

Environment Group

Local Councils could arrange for local veterinarians to inspect stock at sale yards on a contract basis or even employ their own veterinary officer (North Coast Environment Council)

Australian Lot Feeders' Association

If levy payers require commercial advice or veterinary assistance from their RLPB, a fee-for-service could be justified in these instances. This would prevent the need for funds to be collected from those levy payers who have no need for the service.

A4.4 PEST ANIMAL AND INSECT CONTROL FUNCTIONS

NSW Farmers' Association

The Association agreed that ... control of vertebrate and insect pests are essential and core business of the RLPBs. The Association holds strong views that RLPBs can and should provide expert advice and management in these areas.

State Council of Rural Lands Protection Boards

State Council is of the view that the Act is generally achieving its objectives

The cross subsidisation by Board ratepayers of the general public benefits must be carefully examined in line with who should pay for the operation of the pest animal functions of the Board system.

...while the purpose of the Act ... is being met, the effectiveness is being hampered by additional processes and extended consultation protocols (or lack of).

The Act needs to be amended to allow regulations to be made for other animals including feral or nuisance animals to ensure unprotected nuisance animals can be controlled by landholders with the assistance of Boards (for example, foxes and mice).

Landholders

From our perspective, amendments are required regarding vertebrate pest animal control and increased significance being placed on the maintenance of TSRs. (Maret & Mart Vesk, Coomba Park)

I would suggest that NSW Agriculture be relieved of their responsibility, giving the Plague Locust Commission strategic responsibility and RLPBs the responsibility for on ground work and liaising with and regulating landowners. (Donald Capel, Narrabri)

The current system of funding of pest animal control is inequitable and should be changed. (Jocelyn Howell, Galston)

Asking for help from RLPB has not been successful, as they have claimed that they cannot do anything about the deer as they are not a “declared feral animal”. (Maret and Mart Vest, Coomba Park)

Now to say the levies are for feral animal control I ask how can only one field officer provide assistance to 7000 landholders in this area? My property is overrun with foxes and the only surviving native animal is the Echidna. (Marke Wilson, Mullumbimby)

My own experience with respect to feral animal control is that the landowner does everything. In my case I identified the problem and had to personally implement the solution. (David Kanaley, Lismore)

RLPBs

Pest animals are a burden on all people but it is mainly ratepayers who shoulder the majority of the costs. (Gundagai RLPB)

A4.5 TRAVELLING STOCK RESERVE MANAGEMENT

NSW Farmers’ Association

The Association supports the maintenance of stock routes, and has a long history of supporting RLPB management of travelling stock reserves.

The Association supports each Boards ability to determine travelling stock reserve land use.

State Council of Rural Lands Protection Boards

...State Council believes that in general the objectives for TSRs are being achieved.

(that there be) Recurrent government funding for TSR management. ... there are broader public benefits which accrue from TSR the network. These public goods are in the form of conservation benefits...

TSRs (should) be treated as public land for the purposes of the Native Vegetation Conservation Act 1997 and the Threatened Species Conservation Act 1995.

Review the existing TSR network. ... to determine future management options by categorising each TSR according to whether it has core business values, conservation values and is self funding.

Developing regional and state-wide direction for TSRs.

(Boards should) Relinquish control of non-essential TSRs. In coastal areas, the Western Division and part of the tablelands and slopes areas travelling stock are virtually non existent... If a TSR has no value for travelling stock or emergency refuge then a Board should relinquish its control.

Landholders

TSRs are in danger of being exploited beyond repair and their maintenance under funded. (Nell Chaffey, Somerton)

Selling or leasing TSRs would completely destroy them. (Joan Overeem)

The TSR system should be discontinued immediately. (JMN Wallace, Murringo)

The TSRs are a part of our national heritage. (Russ Watts, Tamworth)

I would be supportive of limited management of TSRs for conservation or remnant native vegetation to be funded by the State government (but not full management). (Graham Bailey, Orange)

I strongly urge you to reject the proposal to permit long term grazing leases in TSRs in the name of conservation and the public good. (William Saunders, Port Macquarie)

Australian Horse Alliance

TSRs represent a network of public land capable of sustaining a range of recreational uses such as horse trekking.

RLPBs

In the event of exotic disease outbreak (TSRs) may well prove to be the decisive factor in providing containment for diseased and straying stock of unknown status. (Yass RLPB)

The Board is concerned that government funding for environmental management (of TSRs) would come at the expense of stock use. (Forbes RLPB)

Environment Groups

It is most important that the Stock Routes and reserves remain intact as a widespread network across the whole state. (Citizens Wildlife Corridors Armidale Inc, Kath Wray, Coordinator)

(TSR) plans should also provide for areas not to be grazed at all, for areas to be managed primarily for their cultural values and for areas to be managed for passive recreation. (Friends of the Pilliga, Peter Thompson, Coonabarabran)

NSW Apiarists' Association

The NSW Apiarists Association is concerned that an industry cannot function economically with an unknown resource base, such as would apply by the introduction of the proposed new (TSR) system of allocating Bee Sites. (Billy Weiss, President, Glen Innes)

Clarence Valley Council / Clarence River Tourist Association

Recommendation: That the review group consider alterations to the Act that would broaden the scope and range of prescribed activities on TSRs. (Phil Rogers, South Grafton)

A4.6 ADMINISTRATION AND ACCOUNTABILITY

NSW Farmers' Association

The Association supports:...

- *That there be greater consistency across Boards in the implementation of RLPB programs;*
- *Targeted training for Directors about their roles and responsibilities;*
- *Function Management Plans being completed to provide transparency and accountability in RLPB activities and to enable greater coordination of activities between Boards by the State Council;*
- *The withdrawal of the requirements in the Act necessitating Boards comply with the Public Finance and Audit Act.*

State Council of Rural Lands Protection Boards

The costs which the Board system has incurred are both direct and indirect costs. The restriction on competition has increased the cost of audit from \$170 000 in 2001 to \$300 000 in 2002 and has increased the cost of audit preparation from \$57 000 to \$159 000. One of the worst cases is the Milparinka Board in the north west of the State which has a very small number of ratepayers. The average cost of audit has increased from \$25 per ratepayer to \$150 per ratepayer or a 600% increase. The cost of State Council's audit has more than tripled under the new arrangements.

...it has never been made clear why the Board system was placed under the Public Finance and Audit Act 1983. State Council is not aware of any fundamental failures of accountability in the Board system which would warrant this new approach to audit.

State Council believes that the introduction of the Public Finance and Audit Act has come at a great cost with little benefit.

... State Council is deeply concerned about the growing administrative burden brought about by the new Act.

Commonsense Lands Group

Board elections must be open and transparent

Rate income is for functions, not buildings and surpluses

Landholders

On the surface it appears that other agencies could do the work of RLPBs (David Kanaley, Lsimore)

We wish to tell you how very unhappy we are with RLPB and the lack of services they provide. We have been paying the Minimum General Rate since 1986. Not once has RLPB been of any help at all. (Barbara Perry, Kempsey)

I see no reason why Boards should not be dispensed with and the role of dealing with particular noxious animal problems taken over by NSW Agriculture. Victoria has no RLPBs and manages well without them (Judith Clarke, Cobargo)

My family has been conducting agricultural activities in the Goulburn District for over 50 years. In that time I can't think of anything that the Rural Lands Protection Board, or the previous Pastures Protection Board has done that has benefited our operation in any way. (L Brown, Goulburn)

NSW Agriculture should take over the roles of the RLPB. (Joy Walker)

Under S.12 to be able to transfer ownership of someone else's property without even authorization or order by a court of law gives excessive and unwanted power to a RLPB. (Russell Preston, Highgate Hill)

RLPBs

If Boards lose their autonomy by the empowerment of State Council the Board structure and purpose will not exist as we know it today. (Gloucester RLPB)

It is suggested that Boards should be given some discretion to write-off/forgive rates from time to time (within the prescribed limit), thereby reducing the need to approach State Council to write-off/forgive rates. (Braidwood RLPB)

Other

Our organisation would like to see RLPBs abolished with their present duties being integrated into the Dept. of Agriculture, as we believe is done in other states of Australia. (Combined Tweed Rural Industries Assoc.)

Landholders

I and many others would like to see the RLPBs disbanded due to the fact that they can not provide a service to landholders like myself. (Marke T Wilson, Mullumbimby)

The RLPB is just another name for NSW Cattlemen's Association. (K Raicevich, Sapling Creek)

The time has come when the farmer can no longer afford this organisation and the sooner they are dismantled the better for everybody. (L J Brown, Goulburn)

The Board system in general terms still lives in the past. Some individual boards are still nothing more than "Old Boys Clubs", with the usual connotations of seniority, social standing and 'we know best' attitudes. (Allan Glassop, Cundletown)

If we make RLPBs more accountable to the ratepayers then we would not need the State Council nor the MIA. (Darryl & Karen Smith, Kyogle)

Combined Tweed Rural Industries Association

The criteria for determining who pays, is illogical and inequitable. Cane farmers, because of their political muscle, have been exempted, but other crop producers pay. (Colin Brooks, President, Murwillumbah)

Ranger, Coffs Coast Area

I have found my local Board unresponsive and unaccountable. (Martin Smith, Dorrigo)

A4.7 FUNDING OF THE BOARD SYSTEM

NSW Farmers' Association

The Association supports a rating system that is equitable and which is largely based on the principle of beneficiary pays.

The concept of a general rate being paid by all ratepayers is supported, with such rate to be autonomously determined by each Board.

...there is a need for a review of the process of determining 'notional carrying capacity' to ensure an equitable outcome for all holdings.

The Association encourages each Board to analyse its ratepayer base and review what services are offered to their ratepayers. The importance of ensuring value is delivered to ratepayers is critical.

The Association also supports a specific rate for specific services, for example, animal health services.

State Council of Rural Lands Protection Boards

There are a number of inequities in the current system of rating with respect to the level of benefit received in relation to the rate paid. These primarily relate to the animal health rate and the funding of TSRs.

Have all boards review their prescribed minimum rating areas with a view to making them more commensurate with areas that can carry (say) 50 stock units.

... to further improve the situation another option could be to have all land defined as rateable on the basis of its area alone.

State Council considers that land used for sugar cane production should revert to being rateable.

The Annual Return form should be modified so as to have less emphasis on livestock issues and be more user friendly.

Devise a system whereby certain landholders who have no stock (and intend to continue having no stock) are periodically exempt from lodging Annual Returns.

There should be a base rate introduced as a component of the general rate, and a separate base rate as a component of the animal health rate. The adoption of this practice would in effect abolish minimum ratepayers as a subset of all ratepayers.

The trigger point for liability to pay the animal health rate should be reduced from 50 stock units to 20 stock units.

Commonsense Lands Group

The Act must apply to all rural land. Everyone living on, or using rural land to make an income must contribute to its preservation, given the range of problems affecting rural land.

Recast the rating system on an area base, rating all properties outside the Local Government LEP boundary, and subject to a DV report any other significant properties inside that line, setting a base amount at a fixed per cent above collection costs for all properties where the rate ... fails to meet the base.

Landholders

The requirements in the RLP Act that owners of certain properties pay rates to RLPBs who alone determine which properties are rateable and what levies must be paid, regardless of actual land use, severely restricts free market competition under National Competition Policy. (Russell Preston, Highgate Hill)

We should not have to pay stock rates, animal health and meat levies when we do not own stock. (Lorraine Maloney, Oberon)

I am tired of paying substantial rates year after year for absolutely no benefit. (Don Pratley, Bathurst)

I was led to believe only properties over 10 ha were rated. (Marilyn Martin, Goonengerry)

The concept of a 'Notional Carrying Capacity' is a meaningless construct. (Kay & Denis Page, Ewingar)

APPENDIX 5: INTERSTATE ARRANGEMENTS

A5.1 INTRODUCTION

New South Wales is the only state to have in place a system of land-holder funded boards charged with providing animal health services, pest animal and insect control and travelling stock reserve management. While the extent to which these services are provided in other states and territories varies, the primary responsibility for these services rests with the relevant department of primary industries or natural resources.

This appendix summarises the arrangements for rural land protection that exist in other Australian jurisdictions. The ACT is excluded from this summary because of the absence of a significant agricultural sector and the lack of rural lands protection arrangements.

A5.2 INTERSTATE RURAL LAND PROTECTION ARRANGEMENTS

Victoria

The Victorian Department of Sustainability and Environment (under the Ministry of Primary Industries) is the agency with overall responsibility for animal health and the management of pest animals. However, the performance of these services is spread over the following agencies and industry groups:

- the Department of Environment and Sustainability's role is concentrated in the areas of policy, research and development;
- the Victorian Pest Management Committee undertakes management of pest animals and insects;
- individual landholders/manages pest control on their properties;
- local governments undertake local area planning and compliance;
- the Environment Protection Authority (EPA) has a key responsibility in protecting land use through a range of measures to prevent contamination;
- industry groups promote control measures; and
- community groups promote awareness campaigns.

Animal Health

The Department of Environment and Sustainability's animal health program monitors disease occurrence, mitigates the economic and social effects of disease and chemical residue occurrence, facilitates the marketing of Victorian livestock and livestock products, and promotes the welfare of farmed animals. The development and delivery of these programs involves policy, legislation, advisory, research and regulatory activities. These programs form part of a national approach to ensure that livestock and livestock products meet the requirements of domestic and international customers.

Pest Animals

The Victorian Pest Management Committee, which is made up of government and community stake holders under the auspices of the Department of Environment and Sustainability, manages pest animals. The Committee has identified over 250 pest animal species in the State. Given this large number of pests, it has been necessary to prioritise pest management strategies under a policy and planning framework. The initial strategies concentrate on the pests declared under the *Catchment and Land Protection Act 1994*. These include:

- weeds;
- rabbits;
- wild dogs;
- wild goats
- wild pigs;
- foxes; and
- public land pest management (including good neighbour program).

The Department works closely with local government, industry and land managers to build partnerships between stakeholders. To enhance these efforts, the Department routinely organises government-sponsored programs where all past actions, recent work and new approaches are taken into account.

The Victorian Pest Management Committee aims to:

- prevent new and emerging pests from having significant impacts on natural and productive resources;
- decrease the impact of established pests on natural and productive resources; and
- increase community capacity to successfully respond to new and existing pest problems.

Local government involvement in pest management occurs through the *Local Government Act 1989* and the *Planning and Environment Act 1987*. Other legislation relating to pest management in Victoria include the *Catchment and Land Protection Act*, which provides a basis of control of declared pest animals, and the *Wildlife Act 1975*, which provides management options for native wildlife species that impact on agricultural production.

Travelling Stock Reserves

There are no travelling stock reserves in Victoria.

Queensland

Animal Health

The Queensland Department of Primary Industries' Biosecurity Business Group aims to provide protection to Queensland primary industries from the threat of exotic, emergent and regulated pests and diseases by working closely with industry through surveillance, regulatory compliance and effective information systems. The Department employs stock inspectors and veterinary officers to this end, supported by Departmental veterinary laboratories.

Pest Animals

The Department of Natural Resources and Mines, under the Ministry of Primary Industries, has overall responsibility for the management of pest animals in Queensland. Pest animals in

Queensland include feral animals (pigs, wild dogs, rabbits, foxes, feral goats, and locusts) and exotic animals (feral cats, cane toads, mynah birds carp fish and tilapia). Another set of pest animals comprise certain native species (flying foxes, possums, ibis, and salt water crocodiles), which are protected under the *Nature Conservation Act 1992* and are managed by Queensland Parks and Wildlife Services.

Pest animals are managed under the *Land Protection Act 2002*. Under the Act there are separate State management strategies for pest animals, with actual pest control activities the responsibility of local government, which are required to develop pest management plans for their areas in consultation with land owners / managers. Local governments undertake pest control activities on their own budgets through the following means:

- awareness and education;
- monitoring and assessment;
- strategic planning framework and management;
- prevention and early intervention; and
- integrated management systems.

Pest management in Queensland is, however, spread over a several agencies and communities that have the following roles:

- the State Government's role is concentrated in the area of policy development and management of research and educational programs, although the Department of Natural Resources and Mines has its own teams of land protection officers that carry out pest control and also play a coordination role;
- the Environment Protection Agency also facilitates management of pest animals;
- the Department of Primary Industries responds only in the cases of exotic disease outbreaks, although it also administers animal welfare legislation;
- local governments undertake local area planning and administer compliance regulations and employ Rural Lands Officers and Pest and Stock Route Officers, which assist landholders with on-farm baiting etc;
- individual landholders manage pest control on their properties;
- industry groups promote control measures; and
- community groups promote awareness campaigns.

Travelling Stock Reserves

Travelling Stock Reserves are managed under the *Land Protection (Pest and Stock Route Management) Act 2002*. The Act contains guidelines for land protection and management. Consultation and partnership arrangements have been developed between local communities, industry groups, State Government (Department of National Parks and Wildlife Services) and local governments to achieve a collaborative approach to stock route management. Local governments employ Pest and Stock Route Officers to manage stock routes, taking the following into consideration:

- recognising stock travelling as the main use within a framework of multiple uses;
- preserving land corridor connections for integrity and viability;
- managing natural resources for integrity and viability; and
- seeking community input in the network's management.

Northern Territory

The Northern Territory Department of Business Industry and Resource Development has the sole responsibility as far as animal health and welfare are concerned. Pest animals and insects work is undertaken within the Department of Parks and Wildlife.

Animal Health

The Department of Business, Industry and Resource Development employs stock inspectors and veterinarians who, in conjunction with the Berrimah Veterinary Laboratories (BVL), provides landholders with advice on diseases and parasites and, in the process, collects veterinary surveillance data on animal health issues such as cattle ticks, tick fever, and Johne's disease. BVL is the only veterinary laboratory in the Northern Territory.

Pest Animals and insects

The Department of Business, Industry and Resource Development is responsible for pest control in the Territory.

South Australia

Animal Health

The Animal Health Section of Primary Industries and Resources South Australia (PIRSA) is responsible for oversight and assistance to industry of animal health matters of National or State importance, particularly in regard to surveillance and disease control activities required for market access purposes. PIRSA employs veterinary officers and has a contractual arrangement with a private firm for the operation of the state veterinary laboratory at Glenside. In line with State Government policy, most animal disease programs are funded by industry with the Section providing expertise, staff and some administrative input.

Pest Animals and Insects

In South Australia, the *Animal and Plant Control Act* provides for the control of pest animals in local government areas. Land owners are responsible for the control of proclaimed animals and plants on their properties and for the cost of proclaimed animal and plants on adjoining roadsides.

The Animal and Plant Control Commission sets policies relating to proclaimed animals and plants and provides administrative, technical and research support to the 27 rural animal and plant control boards across SA. These boards are independent, community-based entities (made up of departmental representatives and stakeholders) which formulate local responses to local Commission policies. Boards are funded by local councils and the State Government according to local need.

Tasmania

Forestry Tasmania under the TAS Department of Primary Industries, Water and Environment (DPIWE) is responsible for managing 1.4 million hectares of multiple use State forest and 178,000 hectares of forest reserves.

The Department of Primary Industries, Water and Environment caters for pest animals, animal health and animal welfare through effective quarantine barrier services, and a range of

pest management, disease control and response programs.

Records of diseases are kept at the Regional Quarantine Centre and a weekly summary of inspections is forwarded to the state pest and disease surveys coordinator for further analysis. There are currently twenty six pest and disease surveys conducted at various time throughout the year for legislative and market access requirements.

Western Australia

The Department of Conservation and Land Management (CALM) is the State Government agency responsible for the management of WA's national parks, conservation parks, marine parks, State forests and timber reserves, nature reserves, marine nature reserves, and all associated forest produce, native plants and animals.

CALM's services on a Statewide basis include:

- management of native plants and animals;
- production and implementation of land and wildlife management plans;
- protection of animals from disease; and
- protection of native plants and animals from disease, feral predators and pests.

The Department provides a variety of services from their laboratories, including testing for diagnosis, export accreditation and disease eradication. It also conducts research on livestock disease and parasitic conditions and provides laboratory support for research on animal production.