

I wish to make a submission to the Review of The Primary Industry Activities Protection Act 1995. Thank you for the opportunity.

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The Act refers to legal protection for agricultural activities. There is, I believe, a need to recognise that some protection should also be offered to existing established residents in an agricultural area affected by the introduction of a new industry. The Act was designed to protect farmers from complaint issues arising from urban encroachment into established agricultural areas. It says nothing about the encroachment of a new activity into existing established rural communities and the effects that can have. Some consideration should be given to extending the legislation to include legal protection for those in existing established communities.

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On the north-west coast the intensive horticultural industry is an example of a recently introduced activity. It has expanded at a swift pace, using land that was formerly used for traditional agricultural activity. This increase in soft fruit/berry production reduces the land available to continue with these traditional activities. Thus, more intensive horticulture will result in less agricultural activity. In the example of the Berry Farm at Sulphur Creek, the original agricultural property purchased is now a blueberry operation and sizeable acreages on adjacent and nearby properties are being used to grow other berries. Some consideration should be given in the Act to limiting the size of a particular introduced activity in a specific area to ensure that traditional agricultural activities can continue alongside the new activity, so avoiding a 'single crop' monopoly approach to land use.

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The Issues Paper states;

Another common, pivotal feature required in order to be afforded protection is that there must not have been a change on the farm. The change must have occurred in the surrounding area. Most 'right to farm' protection is given to those operations which can point to the change in the surrounding area while the agricultural activity remains unaffected. If the agricultural activity is changing, either in size or methods used, the protection may be lost. (p.14/15)

The recent development of the berry and soft fruit industry on the north-west coast has seen a significant change in activity in the area.

What were once privately owned, small, or one man traditional agricultural operations, are now intensive horticultural operations requiring large amounts of seasonal labour and major changes to work practices both in terms of size and method. At the same time there has been no significant change in the surrounding areas.

The introduction of this new intensive horticultural activity into an area that has not seen this activity before raises important issues.

In particular, significant safety concerns have been raised re. traffic usage on local roads.

An example of these safety concerns is Zig Zag Road, the address listed on the Berry Farm packaging. It is a narrow, twisting road with blind turns and steep sections. Since the Farm operations

commenced there has been an increase in heavy vehicles like large trucks, full size passenger coaches, smaller multiple passenger vehicles and farm employee traffic using the road, posing a significant increase in risk to road users. What was once a rural road used primarily by the local community, is now an access road to a site that, during the fruit picking season, is one of the largest employers on the coast. Prior to the Farm there were no warning signs along the approximately 3.5km of the road. There are now 14 with two more planned.

The Review should consider the potential hazards that a new activity introduces into an established area and identify strategies to deal with those hazards. Where such new activity poses insurmountable problems for the existing established communities, a formal process, set out in legislation, should be available to all parties to assist in resolving issues. (see next two points).

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The Review of the Act could also consider legislating for a Disclosure Statement, not only for people wishing to move into a rural area, but also for industries planning to move into established rural communities. This would enable all parties to identify potential problems at an early stage. Those industries would then be aware that there would be a higher expectation on them in terms of minimising any unreasonable interference their activities may have on the established residents of those communities and their enjoyment of their properties.

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The Review offers the possibility of amendment to existing legislation. Any change raises the prospect of problems related to an increase in legislative complexity and arguments about terms used and legal interpretations.

Consideration could be given to the provision of a mediation process between conflicting parties managed through an independent mediator. There would be a clear recognition of the needs of all the stakeholders, a Statement of Rights outlining what common law rights exist in the situation, and a commitment by all parties to work toward a resolution acceptable to all. A condition of any attempt to resolve land use conflict would be that all parties agree to this mediation process. Only if this mediation process has been used and found unsuccessful, can resolution be sought through the legal system.

The Boundary Fences Act 1908, for example, provides for arbitration of disputes between neighbours, so a similar approach could be taken for disputes about agricultural nuisances.

This mediation process, funded by industry and government, would, I believe, reduce the 'red' and 'green tape' that the Review seeks to address, and be a more cost effective alternative to using the legal system.

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Thank you for the opportunity to make a submission to the Review.

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