



4 August 2014

The Project Team
Review of the *Primary Industry Activities Protection Act 1995*
Department of Primary Industries, Parks, Water and Environment
GPO Box 44
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Dear Project Team

REVIEW OF THE PRIMARY INDUSTRY PROTECTION ACT 1995

Thank you for the opportunity to make a submission to the review of the *Primary Industries Activities Protection Act 1995*.

In addressing your specific questions:

1. *Are there any examples of innovative laws protecting primary industry activities that Tasmania can learn from?*

It is surprising that the Issues Paper does not raise **Purchase of Development Rights** (PDR) as an option for preserving agricultural land and protecting existing agricultural activities. In Australia PDR is used in NSW for protecting heritage properties. In the US it is widely used for agricultural land under threat of development for residential or other uses. Through a covenant, land use can be specified, protecting the agricultural activities undertaken on the property.

2. *Are legal protection laws the appropriate mechanism to resolve land use conflicts?*

The Issues Paper does not indicate how many times the defences identified in Section 4 of the *Primary Industry Activities Protection Act 1995* have been used. Does it actually help protect agricultural practices? In its current form it has an extremely narrow focus. I would suggest that most nuisance investigations are carried out by Council Environmental Health Officers and resolved through mediation and agreement. Most land use conflicts, in my experience of eight years as a Councillor, have resulted not from existing land use but rather intensification of use, or change of use. These issues are dealt with under the provisions of the relevant planning scheme and the Land Use Planning and Approvals Act 1993. They could be dealt with more effectively with the new single planning scheme, and also through a comprehensive review or re-write of LUPAA.

3. *Has the Primary Industry Activities Protection Act 1995 been an effective tool in upholding farmer's rights?*

Who knows? I am yet to see any data suggesting it has. As remarked above, most disputes seem to be resolved through the planning process – albeit not necessarily to the satisfaction of everyone, or anyone.

4. *Are the definitions in the Primary Industry Activities Protection Act 1995 sufficiently clear and do they cover all relevant activities?*

Some definitions are vague & fuzzy. Agriculture covers a vast array of activities.

5. *How could the Primary Industry Activities Protection Act 1995 be improved?*

Amend Section 4(d) to read “the activity is using industry-accepted farming practices and is not being improperly or negligently carried out”. Agricultural practices are evolving rapidly, and with these changes, the community's expectations are also changing.

6. *Mandatory disclosure of neighbouring agricultural activities is not currently required under Tasmania's land sales legislation. Would mandatory disclosure help prevent land use conflicts?*

By specifying the agricultural activities undertaken on a property it may be seen as a restriction on future activities. Farmers must be able to improve and innovate by introducing new farming practices. Although disclosure is required in Victoria, it appears that the Victorian State Government may be removing this requirement. A significant development perhaps, given that Victoria is the only jurisdiction in Australia where disclosure of neighbouring agricultural activities is required? I would suggest that a consistent application of the disclosure requirements would be difficult.

Yours faithfully

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Southern Midlands Council