

Review of the Livestock Health and Pest Authorities Issues Paper

Unique to NSW, the Livestock Health and Pest Authorities (LHPAs) have a 150-year tradition of landholder-funded, district-based delivery of livestock health and pest management programs to safeguard agricultural production in NSW and contribute to the national biosecurity system.

1. Why review the Act?

Widespread landholder and industry concerns lead to the temporary deferral of certain changes to the LHPA rating system implemented from 1 January 2009. The LHPAs are established under the *Rural Lands Protection Act 1998* and a review of this Act delivers on an election commitment of the NSW Government to conduct a comprehensive review of the LHPAs before the implementation of any new rating system. The review's Terms of Reference and consultation process are detailed in Attachment 1. The main features of the Act are detailed in Attachment 2.

2. What will be reviewed?

The review will examine the objectives of the *Rural Lands Protection Act 1998* and whether the provisions of the Act and the associated *Rural Lands Protection Regulation 2010* are the best way to achieve those objectives.

Livestock health and pest control play a key role in helping to maintain the competitiveness and productivity of New South Wales agricultural industries. Some of this activity also provides wider benefits to the community by, for example, enhancing environmental outcomes.

These concerns include the balance between public and private benefits, governance arrangements to facilitate soundly-based assessments and reform options. Accordingly, input from the various stakeholders will be critical.

There have been a series of major reports on LHPAs and their predecessor organisations over the last decade. The analysis and recommendations in those reports will be assessed and used as a guide in formulating the analysis in this review. Also, there is the question of whether the findings of those reports are relevant today.

Further, the release of the Beale report on "One Biosecurity" addressed many of the biosecurity issues relevant to LHPAs and other organisations operating in the biosecurity sphere in New South Wales.

Effective biosecurity is a sound investment and has protected the Australian people, economy and environment from significant damage—a foot and mouth disease outbreak alone could cost Australia between \$8 billion and \$13 billion.

Farmers and other agricultural businesses face huge losses should a major pest or disease be introduced into Australia. Many of these pests and diseases cause direct losses due to decreased yields of crops or stock losses. There may also be increased production costs because of a greater reliance on pesticides, chemicals or drugs used to control the introduced pest or disease. One of the major concerns for most agricultural industries is the potential loss of export markets that rely on our favourable health status.

Pest and disease outbreaks do not just impact on farmers and agricultural business. They also impact upon other businesses along the supply chain. All of these factors constitute incentives for farmers and related businesses—individually and collectively—to observe sound biosecurity principles and practices.

The balance and level of biosecurity resources across the continuum should be determined by systematic analysis of risks and returns. Prevention or early detection significantly reduces the probability and costs of pest or disease outbreaks. Knowing where to apply resources using an evidence-based risk approach should provide considerable savings for the NSW economy.

The review will therefore cover, but not be limited to, issues such as:

- governance arrangements for the LHPA system;
- the appropriate number of LHPA's;
- whether LHPA responsibilities should be broadened to include other regionally-managed activities, such as other aspects of animal and plant health or environmental management;
- the levying of rates, including the size of minimum rateable landholdings and the base upon which rates are levied; and
- the proportion of public versus private benefits generated by LHPAs and the degree to which this split should be reflected in the system's funding sources.

3. What is the review process?

The Minister for Primary Industries, the Hon. Katrina Hodgkinson MP, has appointed an independent consultant, Terry Ryan, to conduct the review. Mr Ryan is being supported by the NSW Department of Trade and Investment, Regional Infrastructure and Services and advised by a Government/industry Steering Committee.

The review process involves:

- (i) preparation of this Issues Paper as a basis for consultation meetings and public submissions.
- (ii) regional public meetings and targeted meetings with key stakeholders to discuss the Issues Paper, obtain preliminary feedback and invite submissions;
- (iii) a public call for written submissions;
- (iv) a draft report to the Steering Committee; and
- (v) a final report to the Minister for Primary Industries (by 30 November 2011).

4. Purpose of this Issues Paper

This paper is intended to identify the major issues to be considered by the review to stimulate discussion and to assist those wishing to submit a case in support of, or as

a challenge to, the powers within the Act and Regulation. To assist those preparing submissions, some of the issues that have been raised and some of the methodologies for assessing them are presented in this paper.

5. A framework for analysis

The framework outlined below establishes the economic analytical framework for the activities of LHPAs in assessing their benefits and costs to ratepayers and the general community. Similar methodology can be applied to other authorities such as Weeds Councils and Catchment Management Authorities operating on similar natural resource management and biosecurity issues. The interaction between these different organisations working in a similar space will be considered in the Review.

Many animal diseases or situations that involve livestock management are the responsibility of producers or the owners of the livestock. These include standard veterinary treatment for physical injuries, birthing issues, health checks and internal parasites. Producers evaluate how much to invest in management and control based on the benefits to them of control (and maintenance of appropriate animal welfare standards). Whether they make those investments does not matter much to other producers as the diseases and situations do not spread to other properties.

Diseases and issues that have the potential to spread to others properties are a different situation and raises the issue of public good.

Defining public good benefits is not a straightforward matter. However, in most policy analysis public goods are generally those instances where there are benefits which go beyond those who benefit directly from an activity. These benefits are often termed spillover benefits: benefits 'spillover' to others apart from those who make the investment in an activity. Typically, they remain as spillover benefits since 'the others' cannot be made to pay, they are 'free riders'. Situations where there are spillover benefits are of interest for the community as a whole as there may be under-investment in activities where there are spillover benefits. That is, where those funding the activity cannot gain *sufficient* benefit to justify the funding but where, if the spillover benefits were included, the investment is worthwhile for the community.

Some aspects of animal health and disease management produce spillover benefits potentially resulting in under-investment in disease management. Controlling a serious animal disease or pest that easily spreads *between* farms will deliver benefits to the source problem farm, the neighbours, farms in the district and often the industry through lower production costs or maintaining market access. However, the control costs maybe too substantial for an individual producer, eg. it may involve immediate destruction. In such situations it will pay producers in the region or industry to develop collective control systems and make enough of the potential beneficiaries contribute to the cost of disease management systems.

As well as spillover benefits between industries from animal disease management there maybe spillover benefits to *businesses outside of the animal industries or people in the broader community*. For example, some animal diseases pose health risks for people, Hendra is a case in point, but there are other diseases, such as tuberculosis. Other situations might involve diseases that affect pets as well as livestock or where there are food safety concerns for consumers. In addition there

have been instances, where industry funded services are used to manage diseases of animals not owned by producers in the industry funding the services (eg., past equine influenza outbreaks).

6. Funding of services that involve a public good

The above analysis suggests that funding some services that involve a public good is relatively straightforward. Where intra-industry spillovers characterise the situation funding by those in the industry would be appropriate. This may extend to an industry levy if it is likely that voluntary funding would be insufficient because of many free riders. Such an industry levy might be regionally based where the disease issue was confined to specific regions.

Where there are inter-industry spillovers involved, and there is potential under-investment with levy funding from just one or two industries, a broader based levy across the relevant industries would be appropriate.

- The general rate component of LHPA rates is a means of securing industry funding from 'all' landowners for general vertebrate pest management responsibilities relevant to all land owners and undertaken by the LHPAs
- The animal disease component can be viewed as securing funding from only producers in the livestock industries.
- When it comes to spillover benefits to others outside of those producers/owners paying the general and animal diseases levies there several issues to consider, including whether additional funding is needed and the options for securing that funding.

The principle of additionality suggests that the existence of public good spillover benefits that are a by-product of industry focused animal health and pest control is not, of itself, a sufficient basis for public funding. The role of the LHPAs has been suggested as being so strongly beneficial to industry interests that the services they provide would likely have been undertaken even in the absence of public support. The spillover benefits for society from benefits to the environment from their activities are a benefit that is obtained for free.

A simple hierarchy of assessment of the needs for intervention on biosecurity issues is:

1. For diseases or pests specific to the farm or landholder and that are unlikely to spread to neighbouring farms then it should be the farmers' responsibility. The costs and benefits of remedial action are solely within the farm or landholding.
2. For diseases or pests that can be 'transmitted' to neighbouring farms or landholdings but do not disperse rapidly, voluntary groups of farmers and neighbours acting together should be able to coordinate their actions to deal with the issue without the need for outside intervention by government or other authorities. The costs and benefits of remedial action are confined to the group.

3. For diseases or pests that can spread beyond neighbouring farms or landholdings but only cause costs for the industry or region in which it is located. If it is beyond the capability of the individual farmer or voluntary groups of farmers to take action to deal with the problem, but the benefits accruing to them from collective action exceed the costs, there may be a role for a compulsory levy to fund remedial action.
4. For diseases or pests that can spread widely, but the benefits to landholders (as a group) are less than the costs of dealing with the problem and there are benefits accruing to others, such as for environmental protection, which would exceed the costs of dealing with the problem. In this case as insufficient action might be taken by the landholders there is a potential case for topping up with taxpayer funding.

Submissions need not be limited to the issues canvassed in this paper, or be constrained in the way they are presented. Submissions should, however, take into account the review Terms of Reference (see Attachment 1). Once public meetings have been held and submissions have been received, the consultant will prepare a Final Report in accordance with the Terms of Reference.

Copies of this Issues Paper may be obtained from the NSW Department of Trade and Investment, Regional Infrastructure and Services (ph: 02 - 6391 3618) or be downloaded at <http://www.dpi.nsw.gov.au/aboutus/about/legislation-acts/review/lhpa>. Copies of the legislation are available from the NSW Government Information Service (ph: 1800 46 3955; mail: PO Box 258, Regents Park NSW 2143) or can be downloaded at: <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>.

The review team will arrange regional meetings of LHPA ratepayers and other stakeholders to canvass the review objectives and process. Individuals, organisations and government authorities are also invited to make submissions to the review. Submissions can be sent to the consultant via the contact details below:

Secretariat
Livestock Health and Pest Authority Review
PO Box 8731
Gundaroo NSW 2620
Email: secretary@lhpareview.com.au

The deadline for written submissions is 30 September 2011.

<p>Unless marked confidential, written submission received will be placed on the NSW Department of Trade and Investment, Regional Infrastructure and Services website. Where possible, submissions or parts of submissions marked confidential will be treated in confidence. However, submissions are subject to the provisions of the <i>Government Information (Public Access) Act 2009</i> and may have to be released under the provisions of that Act. A list of the persons and organisations making submissions to the review will be included in the Final Report.</p>

7. Support for the Act and the LHPAs

The Act and Regulation force certain things to occur that would not occur in the absence of government intervention, such as:

- a) the establishment of LHPAs;
- b) the establishment and management of travelling stock reserves; and
- c) the mandatory payment of LHPA rates by landholders.

While these regulatory provisions require that certain things occur, they may be beneficial if their associated benefits outweigh their costs. The review therefore invites submissions on the benefits and costs to landholders and industry of the Act and LHPA system.

Centralised regional delivery of animal health and emergency management services etc, provides benefits to landholders, particularly in relation to issues that cannot be effectively managed by individual landholders acting independently. These benefits are, however, offset to some extent by the administrative costs of the LHPA system and the direct costs and constraints the arrangements impose on landholders.

In considering whether the Act and the LHPA system generate net benefits, the level of support for them by landholders and industry will be important. The review will therefore consider the extent to which landholders and industry are aware of the benefits and costs of LHPA operations on an ongoing basis.

8. Key Issues

Drawing from the Terms of Reference at Attachment 1, key issues to be considered in the review are as follows:

- The review is required to clarify those objectives of the NSW Government which are being addressed by the Act and to determine their continuing appropriateness. This includes clarifying the reasons whether and why it necessary to intervene in the ways provided for in the Act.
- In the absence of government intervention, would ‘spillover’ effects result in unacceptably low levels of landholder investment in the animal disease control and control of vertebrate pests and noxious insects?
- A number of agencies/organisations currently deliver services to farmers and other rural landholders. These include, for example, the Department of Primary Industries, Catchment Management Authorities, LHPAs and Weeds Councils. Is the current system efficient and effective or is there need for a new regional service delivery model for farmers and other rural landholders?

To help in assessing this issue, some specific questions are:

- What are the public good benefits for NSW stemming from animal disease management or control? What are the diseases or situations that involve intra-livestock industry spillovers, inter-livestock industry spillovers or spillover benefits to business outside of livestock or people in the community more generally?

- Is the value to NSW livestock producers/land owners of the services delivered by LHPAs sufficient to outweigh the cost of funding the LHPAs?
- If producers (as a group) don't consider the investment worthwhile, are there enough benefits to the community at large to pay for the current LHPA services?
- Are there specific current LHPA responsibilities/activities/services that do not deliver benefits to LHPA ratepayers but deliver benefits to others in the NSW community? What are these?
- Is and if so to what extent is the maintenance of certain Crown lands as Travelling Stock Reserves justified on net public benefit grounds?
- To what extent is it necessary for the services currently provided by the LHPAs to be regionally delivered, and is an independent system of LHPAs the most efficient and effective way to deliver them?
- Should the Review consider the economic rationale and functioning of Travelling Stock Reserves or is this issue more appropriately dealt with by the State Policy Council?
- Could other services that are provided regionally to landholders by organisations such as DPI, Weeds Councils and CMAs be effectively and efficiently provided jointly with the services currently delivered by LHPAs?
- To what extent do new developments in surveillance and pest and disease control open up alternatives to traditional arrangements?
- To what extent do current arrangements impede or facilitate development of more efficient and effective approaches?
- How should the delivery of these services be funded and what should be the basis of any rate levied on landholders? To assist in the consideration of this issue some specific questions are:
 - Do the rates applied reflect the risk categories of the different types of landholders?
 - Are the rates appropriately targeted at those who benefit from the LHPAs?
 - To what extent could authorities make greater use of fees for service?
 - To what extent do existing LHPA services crowd out private provision and payment of such services or involve cross subsidies between ratepayers?
 - Is the rating system efficient in terms of the rates set for individual landholders for the control functions authorities are required to carry out?
 - Are there any alternative rating or revenue systems which can be considered?
 - Do the LHPA activities reflect the risks of different diseases and pests and the returns from appropriately containing or eradicating them? Is the basis

for these decisions sufficiently transparent and well understood by ratepayers?

- Is the risk profile for landholders dependent upon the size of the property?
- Does property size have an impact upon the scope and costs of pest control?
- Are there examples of problems or successes in LHPAs delivering these services to smaller landholders?
- At what level do the administration costs of collecting rates from smaller properties exceed the revenue returns?

There have also been a number of specific issues raised in researching the issues and preliminary analysis. Comment is sought on these specific questions and issues.

Plague Locusts

There have been concerns raised that the funding for control of plague locusts should not be obtained from regions where they are not a problem.

The recent outbreak and control provides a comparison base between NSW and other jurisdictions on the effectiveness and relative costings between LHPAs and other state approaches.

- Is there information on the relative effectiveness of New South Wales versus other jurisdictions?
- Can the impact of plague locusts be isolated to specific regions?
- Is there an efficient levy mechanism to ensure that the beneficiaries of plague locust programs are the prime funders of them?

Cattle ticks

In its 2009-10 Annual Report the LHPAs stated "The new RLPB network should take over the current DPI program to manage and eradicate cattle ticks. This should be done on the understanding that sufficient funding is available from government to effectively undertake the role."

Concerns have been raised that in certain saleyards there have been officials from both the Department of Primary Industries and the LHPAs attending at the same time but checking for different pests. This adds to the total costs for the community and raises the scope for efficiencies to be obtained.

It is unclear to the Review as to why cattle ticks are under a different regime to other livestock pests.

- Should cattle ticks be part of the remit of the LHPAs?
- In considering this the beneficiaries of this program should be identified. Is it an issue that is primarily for the benefit of farmers or are there other community wide benefits?

- If there are any what are the best means of achieving 'economies of scope' by amalgamating inspection and regulation functions, and who should undertake them?
- Has any progress been made on the implementation of the recommendations in the Annual Report?

Mouse plagues

Mice plagues occur on a periodic basis depending upon seasonal and other conditions. Mouse plagues tend to be widespread but are localised in their impact on to individual farms. In the recent mouse plague in New South Wales the local LHPAs adopted different approaches in assisting farmers to control these plagues.

- Should the Plague Locust Management Group or another similar body also manage mouse plagues?
- Is there a need for a centralised approach where the local authorities adhere to a standard means of assisting farmers with consequent respective cost allocations to the individual farmers?
- Are there alternative means of providing the necessary support and chemicals which do not rely upon the LHPAs?

Foxes

The LHPAs have a significant role in the control of foxes primarily through organising baiting programs. They are not a prescribed animal in the category of wild dogs, pigs and rabbits.

- By what means can the LHPAs put animals on their list for control?
- Is there a process for adapting the list to changing circumstances of any other potential new animal pest problems?
- Is there an alternative means of providing the appropriate chemicals and organised participation in baiting programs without relying on the LHPAs?
- Are Crown lands appropriately covered in baiting programs and making a sufficient contribution to the cost of them?

New diseases and pests

New diseases and pests can arrive at any time. There are in existence, arrangements through the respective emergency Animal and Plant Health agreements between the Commonwealth and States. LHPAs are a frontline agency in responding to exotic disease outbreaks, and at such a time through a Memorandum of Understanding with the Department, they come under Departmental control.

- If the eradication fails, how do the LHPAs assess the risks and returns from any monitoring and containment strategy that may be put in place for these new problems?
- Is the existing arrangement between the Policy Council, State Management Council, individual authorities and the Department effective in determining priorities and dealing with the problems in a timely and efficient manner?

Equine influenza/Hendra virus

The outbreak of equine influenza provides a recent example of biosecurity problems and dealing with them. It can be used as an example to test if the system worked effectively and what lessons have been learnt to deal with any possible future outbreaks of this disease and other diseases. The same questions apply to the more recent occurrence of Hendra virus.

- Were there any areas that could have been dealt with better such as in notification and quarantining arrangements?
- Did the systems work in identifying potential problem areas in terms of the spread of the disease to neighbouring properties?
- Were the properties fully identified in the LHPAs databases?
- Were the properties below the minimum rateable area?
- What were the implications of excluding landholders with fewer than 5 horses from the Animal Health component of LHPA rates?

Coordination

- Is the existing arrangement between the Policy Council, State Management Council, individual authorities and the Department effective in determining priorities and dealing with issues such as for example Travelling Stock Routes in a timely and efficient manner?
- Are there any impediments to the effective functioning and coordination between the different components of the LHPAs?

Regulation enforcement

The LHPAs are also responsible for ensuring that the regulations that they operate under are enforced upon ratepayers. There have always been concerns in other sectors of the economy about what is called "regulatory capture". This is where the regulated industry develops close relationships with the regulator and regulations and their enforcement favour the regulated industry relative to other interested participants in the industry.

- Do the LHPAs effectively enforce their regulatory function?
- Do the LHPAs have an appropriate management or auditing scheme to ensure their regulatory enforcement is undertaken appropriately?
- Should this be undertaken by a separate third-party to ensure the perception of independence?
- What are the costs of such a change?

Attachment 1

Terms of Reference

The review will:

- 1) clarify and assess the appropriateness of the Government's objectives associated with the *Rural Lands Protection Act 1998* and the Livestock Health and Pest Authorities (LHPAs);
- 2) assess whether the provisions of the Act and the associated *Rural Lands Protection Regulation 2010* are those which enable the Act's objectives to be most efficiently achieved;
- 3) consider whether the objectives and functions of LHPA's reflect contemporary biosecurity needs and State and national biosecurity priorities;
- 4) assess whether the LHPAs current biosecurity and land management responsibilities should be broadened;
- 5) determine the appropriate size and method of levying of rates upon landholders, including the size of minimum rateable landholdings and the base upon which rates are levied;
- 6) identify whether there are alternative governance models which may be more cost effective and would enhance regional service delivery for a range of services, including the services provided by the LHPA's; and
- 7) investigate whether the proportion of public and private benefits generated by LHPA's is reflected in the system's funding sources.

In considering the objectives of the Act, the review will clearly identify those issues of 'market failure' which are being addressed and whether the scope of those objectives should be changed to capture other regionally-managed activities, such as other aspects of animal and plant health or certain aspects of environmental management, where there would be 'under-investment' in the absence of effective government/industry partnership arrangements.

Attachment 2

Main features of the Act Functions and structures of the Livestock Health and Pest Authorities

The Act provides for the establishment of Livestock Health and Pest Districts in NSW, the associated Authorities, the LHPA State Management Council and the LHPA State Policy Council.

There are over 128,620 LHPA ratepayers in NSW. In aggregate, they contribute approximately \$34 million per annum in rates, which fund LHPA activities.

Livestock Health and Pest Authorities

Section 37 constitutes authorities for each district. An LHPA is a body corporate and does not represent the Crown. LHPAs are controlled by boards. Eight directors sit on the board, of whom six are elected and two are appointed on merit. Directors are subject to conduct provisions set out in Section 57B, and any code of conduct promulgated by the State Management Council.

LHPAs' key functions include the following:

- any function with respect to animal health or the protection of rural lands referred to in the Act or the regulations that is not specifically conferred or imposed on another person or body. The Act specifies some of the animal health functions to include: programs and advice on animal disease prevention, management, control and eradication; chemical residue prevention and management; animal disease surveillance; animal disease surveillance data collation and reporting; and implementation of emergency animal disease preparedness and response programs;
- the administration within its district of drought or other disaster relief schemes; and
- the provision of any service on behalf of or to a public authority by arrangement with the public authority.

Fourteen Districts have been established and the 14 LHPAs 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 reserves and stock watering places. Animal disease management functions include disease investigation and advisory activities in respect of herd and flock health problems. Issues in relation to pesticide residues are also investigated in several Authority districts.

LHPAs work closely with the NSW Department of Trade and Investment, Regional Infrastructure and Services on emergency animal disease responses. For example, in 2009-10 (18 month period) LHPAs committed 432 days to emergency management activities.

LHPAs play a major role in monitoring movements of stock in NSW. Authority Officers are the district registrars of livestock brands, earmarks and NLIS tags. The NLIS register assists the NSW Government to monitor stock movements and forms the basis of the Government's food safety and export quality assurance programs.

LHPAs have important roles in relation to natural disaster relief and emergency management, and are responsible for supervising the control of declared pests, such as wild rabbits, wild dogs, feral pigs and a number of locust species, and assist landowners in the control of other nuisance animals such as mice and foxes. They also are involved in implementing declared pest insect control campaigns, eg., the Australian Plague Locust control campaign.

LHPAs are responsible for the management of travelling stock reserves. This involves the management and protection of approximately 600,000 hectares of reserves, control of (walking) travelling stock movements on travelling stock reserves and public roads , protection of remnant vegetation and maintenance of watering points. Maintenance of the travelling stock reserve network is funded via ratepayers and fees collected from users of the various reserves, and from fees for walking stock on public roads.

LHPAs have 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 in the preparation of submissions to the Australian Government for Exceptional Circumstance drought assistance.

LHPAs are required to prepare function management plans for their functions relating to travelling stock reserves under their care and animal health, and must also prepare a financial report and an annual report each financial year.

Authority staff report to their Authority, but during an emergency animal disease outbreak the Director-General may direct staff to undertake appropriate actions to deal with the emergency.

State Management Council

Section 19 of the Act constitutes the State Management Council. The State Management Council is a corporation and does not represent the Crown. It is, however, subject to the control and direction of the Minister.

State Management Council consists of nine appointees, eight whom are selected on merit by the Policy Council. Six of the eight must come from the boards of LHPAs. One person is appointed by the Minister on the basis of expertise in animal health and pest management.

Functions of the State Management Council (Section 22) include the following:

- supervision of the governance of the LHPAs;
- preparation of and adoption of a strategic plan and policies for the protection of rural lands;
- coordination of the implementation by LHPAs of general policies and strategic policies for the protection of rural lands; and
- public education about the functions, role and activities of the LHPAs.

Other functions of the State Management Council comprise the provision of administrative services to the Policy Council, provision of advice to LHPAs regarding implementation of their function management plans, and provision of administrative and operational training of LHPA staff and directors.

The State Management Council is also empowered to issues guidelines to LHPAs on the exercise of their functions, implementation of general and strategic policies for the protection of rural lands, and the preparation and audit of financial reports.

If an Authority fails to comply with an obligation under the Act, guidelines or function management plan, State Management Council may order the Authority to take corrective action. In the absence of corrective action, the State Management Council can take the necessary action itself to give effect to the order.

The State Management Council's annual reporting requirements include preparation of an operating plan and budget before the commencement of the financial year, a performance report at the end of the year in respect of the strategic plan and annual operating plan, a report on the audit of LHPA financial reports, and an annual report.

LHPAs are required to make a financial contribution to the State Management Council each year. The amount payable by each Authority is determined by the Policy Council.

Policy Council

Section 14 of the Act constitutes the State Policy Council. The Policy Council does not represent the Crown, and in the exercise of its functions is subject to the control and direction of the Minister. The Policy Council comprises of two members from each District, appointed by LHPAs, and an unspecified number of appointees of the Minister (currently there are no Ministerial appointments).

The Policy Council has the following functions:

- the determination of general policies to be implemented by LHPAs for the protection of rural lands;
- the determination of primary policies to guide the State Management Council in carrying out its functions;
- the selection on merit, and appointment, of members of the State Management Council;
- the provision of advice on any specified matter referred to it by the Minister, the State Management Council or an Authority; and
- carrying out such other functions relating to the administration of this Act as may be conferred or imposed on it by the Minister.

Rates

LHPAs are primarily funded by rural landholders through rates levied on rateable land. LHPAs are required each year to levy a general rate and an animal health rate. LHPAs are also empowered to levy special purpose rates, such as the rate for the destruction of pest insects. All rates have to be approved by the Minister for Primary Industries.

Rates comprise a base amount determined by each LHPA, and approved by the State Management Council and, presently, a variable amount determined by each LHPA based on the notional carrying capacity of each land holding in the district. The notional carrying capacity of a land holding is calculated by reference to the number of stock units that could be maintained on the land in an average season. One stock unit is represented by a wether sheep of any breed weighing 40 kilograms, and 10 stock units is represented by a steer of any breed weighing 400 kilograms. An LHPA must re-assess notional carrying capacity within five years of its last assessment.

Section 62 of the Act refers to when rates are to be made. Land is rateable if it is within an LHPA district and has an area that is at least the minimum area prescribed in the *Rural Lands Protection Regulation 2010*. The minimum rateable area for the majority of LHPA districts is currently 10 hectares. Under clause 6 of the Regulation, land of any area is also rateable if used for intensive livestock production and if, as at 30 June in the preceding year, the number of stock kept on the land represented not less than 50 stock units.

The animal health rate only applies to holdings on which at least 50 stock units are kept as at 30 June in the preceding year. The first five horses are not included in this calculation. This information is obtained via the Annual Return referred to in section 76 of the Act. If a rural landholder does not lodge an Annual Return, the animal health rate is automatically applied to the following year's rates.

Within these parameters, individual LHPAs 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.

Where an Authority and a ratepayer are in dispute over a rates notice or assessed notional carrying capacity, the ratepayer may appeal to the Local Land Board (sections 72-74).

Animal Health Provisions

Under Section 42(2)(a) of the Act, LHPAs 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 for Primary Industries may (with the concurrence of State Management Council) delegate to an LHPA 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 determinant 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 LHPAs will undertake in relation to the animal health acts as agreed with the Department of Primary Industries.

Functions that are undertaken under the *Stock Diseases Act 1923* relate to disease control activities for notifiable diseases. LHPAs 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 1975* 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.

Travelling Stock Reserves

A travelling stock reserve is any route or camping place reserved for travelling stock under the *Crown Lands Act 1989*, or more generally any reserve for travelling stock or water reserve (Section 84). The Minister administering the *Crown Lands Act 1989* may vest in an LHPA the care control and management of a travelling stock reserve (Section 85).

LHPAs may issue a stock permit authorising the walking or grazing of stock on a travelling stock reserve (or a public road). A reserve use permit may also be issued authorising individuals or groups to make use of a travelling stock reserve for other purposes, eg, an apiary site. Applications for stock and reserve use permits are to be made to the responsible LHPA.

Section 97 of the Act generally authorises the public to enter a travelling stock reserve during daylight hours to undertake prescribed recreational activities. Section 44 provides for LHPAs to prepare function management plans with respect to their responsibilities for travelling stock reserves. The function management plans are to have regard to the following objectives:

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

A stock permit is not to be issued unless the fee (if any) prescribed by the regulations has been paid or other arrangements made with the LHPA. Section 126 provides powers for prescribed officers to order stock owners on travelling stock reserves to muster their stock, allow the stock to be inspected and counted, and produce an appropriate permit.

Under sections 114-116, an LHPA may by notice in writing to the owner of any land adjoining a reserve 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 LHPA. An owner cannot be required to bear more than half the cost of the fencing work except with the concurrence of State Management Council. An owner of land who carries out work required by a fencing notice is entitled to recover the LHPAs contribution to the cost of the work.

Section 127 provides for compensation to the LHPA for damage caused to a travelling stock reserve. The person responsible for the damage is liable for the cost of repairs of the damaged structure.

Pest Control Orders

Under section 143, the Minister may make pest control orders 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 controlled land. Pest control orders may be made by the Minister after consultation with the State Management Council, or at the request of an LHPA. The order may require certain actions to be undertaken, including:

- a general destruction obligation;
- a limited destruction obligation;
- imposing an obligation on land occupiers to notify their LHPA of the presence of the pest;
- empowering an LHPA to serve an order on land occupiers to eradicate the relevant pest by any method specified by the LHPA; or
- requiring an LHPA to supply materials for pest eradication to land occupiers.

Section 169 deals with the eradication of pests. An authorised officer may take actions considered necessary to control or eradicate pests on any controlled land if a pest control order authorises the taking of the action, or the landholder has failed to comply with an order. Controlled land in relation to a pest control order means the land to which the order applies.

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

Recent Amendments

The *Rural Lands Protection Act 1998* was amended by the *Rural Lands Protection (Amendment) Act 2008* in December 2008. The amendments were the result of two separate reviews of the Act. The key changes arising out of the amendments were:

- renaming of the former Rural Lands Protection Boards to Livestock Health and Pest Authorities;
- restructuring the previous 47 Boards into 14 LHPAs;
- establishment of a new governance framework with redesigned state-wide organisations, including the State Management Council and State Policy Council;
- giving the Director-General of the Department of Primary Industries direct responsibility over LHPAs animal health staff during an emergency animal disease outbreak;
- increasing the minimum rateable area from four hectares to ten hectares in many districts;
- introducing a base charge for all rates and abolition of minimum rates; and

- a new method of calculating rates, based on land area rather than notional carrying capacity.

Most of these amendments took effect on 1 January 2009 and the new land-area rating system was due to commence on 1 January 2010. However, due to the increase in the minimum rateable area the potential revenue for some LHPAs was reduced significantly and to compensate some LHPAs increased their rates in 2009 (by as much as 25 per cent in one LHPA). Most LHPAs increased their rates marginally (approximately CPI) and some actually decreased rates, with the overall rate increase across all the LHPAs being around 5 per cent. This prompted the NSW Government to introduce further amendments to cap rates through the *Rural Lands Protection (Amendment) Act 2009*. Key provisions of this Act were:

- that any future rate increase would be subject to approval by the Minister; and
- that introduction of the new per hectare methodology for determining rates would be postponed until further notice.

The current review delivers the commitment of the NSW Government to conduct a comprehensive review of the LHPAs before the introduction of a new rating system.