

Stronger Primary Industries



Department of
Primary Industries

Briefing Webinar

Pillar 2: Options to reduce
and manage land use conflict

A photograph of two people shaking hands in a field. The person on the left is wearing a red, white, and blue plaid shirt. The person on the right is wearing a green t-shirt. The background is a blurred field of golden-brown crops. The image is overlaid with a dark blue box on the left containing the text 'Policy problem' and a light blue speech bubble on the right containing a quote from stakeholders.

Policy problem

Stakeholders have said that there is **no simple, accessible and impartial mechanism for farmers to resolve land use conflict** regarding their operations.

Options to manage conflict with existing operations

Using existing dispute resolution bodies or creating a new one



1. Expand the jurisdiction of existing dispute resolution bodies

NSW Small Business Commissioner

NSW Fair Trading

Community Justice Centre



2. Create a new dispute resolution body

Ontario Normal Farm Practices Protection Board

Wollondilly Rural Industry Community Advisory Committee

Queensland Land Access Ombudsman Model



3. Create a new or expanded agricultural disputes jurisdiction in a court or tribunal

Land and Environment Court

NSW Civil and Administrative Appeals Tribunal

Option 1. Expand the jurisdiction of existing dispute resolution bodies	NSW Small Business Commissioner	NSW Fair Trading	Community Justice Centre
Cost to parties			
Binding decision		 Decisions can be made enforceable if both parties consent	 Decisions can be made enforceable if both parties consent
Agriculture Expertise			
Other	Limited to small farm enterprises.	If no settlement is reached or an agreement breaks down, parties can apply to NCAT for an order.	Eligibility requirements may exclude some farmers.

Option 2. Create a new dispute resolution body	A. Ontario Normal Farm Practices Protection Board Model	B. Wollondilly Rural Industry Community Advisory Committee Model	C. Queensland Land Access Ombudsman Model
Cost to parties	✗	✗	✗
Binding and enforceable decision	✓	✗	✗
Body has legislative power	✓	✗	✗
Advisory and guidance role	✗	✓	✓
Agriculture Expertise	✓	✓	✓

Option 3. Create a new or expanded agricultural disputes jurisdiction in a court or tribunal	NSW Land and Environment Court (LEC) – Tree Disputes	NSW Civil and Administrative Tribunal (NCAT) – Dividing Fence Disputes
Cost to parties	Low cost (Fees to lodge an application apply)	Low cost (Fees to lodge an application apply)
Enforceable and binding decisions	✓	✓
Legislative power	✓	✓
Specialised expertise	✓	✗
Appeals	✓	✓

Options to manage conflict with existing operations	1. Expand the jurisdiction of existing dispute resolution bodies	2. Create a new agricultural dispute resolution body	3. Create a new or expanded agricultural disputes jurisdiction in a court or tribunal
Established and recognised ADR mechanism	✓	✗	✓
Agriculture Expertise	✗	✓	✓
Localised approach	✗	✓	✗
Risk of litigation	✗	✗	✓

Improving dispute resolution affecting new developments

Expanding the role of the Independent Planning Commission



- Independence from the council and Government
 - Planning expertise
 - No courts
- May detract from larger development conflicts
 - Inconsistent with strategic direction of IPC

Question & Answer

**Ask a question
by raising your
hand or by typing
it into the Zoom
chat box.**



Next Steps



Provide feedback on the options by completing the survey and submitting a written submission by **28 February 2021**



Complete the survey at:
<https://www.surveymonkey.com/r/ALUPsurvey2>



Send your written submission to:
agcommissioner@dpi.nsw.gov.au

