

New South Wales

# Protection of Agricultural Production (Right to Farm) Bill 2005

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to provide for rural land use notices to be given to purchasers of land adjoining or adjacent to rural land and for those notices to be taken into account in any subsequent proceedings by such purchasers to limit or prohibit the use of that rural land for rural purposes.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** defines certain words and expressions used in the proposed Act.

## **Part 2 Rural land use notices**

**Clause 4** requires a vendor under a contract for the sale of land that adjoins or is adjacent to rural land to attach a rural land use notice to the contract before it is signed by or on behalf of the purchaser. If such a notice is attached, the purchaser is taken to have been given the notice.

**Clause 5** requires Councils to issue rural land use notices and sets out the matters that must be contained in the notices. Councils must also keep registers of rural land use notices provided by them and make the registers available for public inspection. The proposed section also enables Councils to charge a reasonable fee for the notices or inspection of the register of notices.

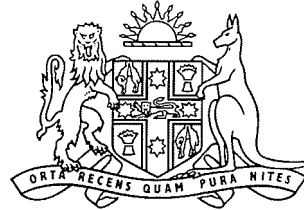
**Clause 6** requires the fact that a notice was given to an owner of land that adjoins or is adjacent to rural land to be taken into account by a court or other body determining proceedings brought by the owner to limit, prohibit or otherwise impede the use of the adjoining or adjacent rural land for agricultural or agricultural management purposes.

## **Part 3 Miscellaneous**

**Clause 7** provides that the proposed Act binds the Crown.

**Clause 8** provides for offences under the proposed Act to be dealt with summarily by a Local Court.

**Clause 9** contains a general power to make regulations.



New South Wales

# Protection of Agricultural Production (Right to Farm) Bill 2005

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New South Wales

# Protection of Agricultural Production (Right to Farm) Bill 2005

No. , 2005

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## **A Bill for**

An Act to provide for a system of rural land use notices for the purpose of protecting existing farming rights and other rural land uses.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Name of Act</b>	3
This Act is the <i>Protection of Agricultural Production (Right to Farm) Act 2005</i> .	4 5
<b>2 Commencement</b>	6
This Act commences on the date of assent to this Act.	7
<b>3 Definitions</b>	8
In this Act:	9
<b>activity</b> means development within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> , and includes an activity within the meaning of Part 5 of that Act.	10 11 12
<b>agricultural management purposes</b> includes the following:	13
(a) the construction, operation and maintenance of rural infrastructure,	14 15
(b) the removal of noxious weeds under the <i>Noxious Weeds Act 1993</i> ,	16 17
(c) the control of noxious animals under the <i>Rural Lands Protection Act 1998</i> ,	18 19
(d) the maintenance of public utilities.	20
<b>agricultural purposes</b> means grazing, dairying, pig-farming, poultry farming, viticulture, orcharding, bee-keeping, horticulture, vegetable growing, the growing of crops of any kind, forestry, or any combination of those things.	21 22 23 24
<b>Council</b> means a council within the meaning of the <i>Local Government Act 1993</i> .	25 26
<b>rural land</b> means:	27
(a) land situated within a rural or agricultural zone under an environmental planning instrument, or	28 29
(b) land permitted to be used for activities for agricultural purposes or agricultural management purposes under an environmental planning instrument or other law.	30 31 32
<b>rural land use notice</b> means a rural land use notice issued under section 5.	33 34

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<b>Part 2</b>	<b>Rural land use notices</b>	1
<b>4</b>	<b>Rural land use notice</b>	2
(1)	A vendor under a contract for the sale of land that adjoins or is adjacent to rural land must, before the contract is signed by or on behalf of the purchaser, attach to the contract a rural land use notice. Maximum penalty: 100 penalty units.	3 4 5 6
(2)	A purchaser of land who signs a contract for the sale of land to which a rural land use notice was attached by a vendor under this section is taken to have been given the notice.	7 8 9
(3)	A provision of a contract for the sale of land or any other agreement:	10
(a)	that purports to exclude, modify or restrict any provision of this section, or	11 12
(b)	that would, but for this subsection, have the effect of excluding, modifying or restricting any such provision, is void.	13 14 15
<b>5</b>	<b>Councils to issue rural land use notices</b>	16
(1)	A Council must, on application by a prospective purchaser or vendor of land or any other person, issue a rural land use notice for land, if the land adjoins or is adjacent to rural land in the Council's area.	17 18 19
(2)	The rural land use notice must contain the following:	20
(a)	particulars of the land (the <i>affected land</i> ), and the adjoining or adjacent land, to which the notice applies,	21 22
(b)	a statement that the affected land adjoins or is adjacent to rural land,	23 24
(c)	a statement setting out the activities that are permissible on any adjoining or adjacent rural land,	25 26
(d)	a statement setting out any permissible activities known to the Council for which that rural land is used,	27 28
(e)	any other information that is prescribed by the regulations.	29
(3)	A Council is to keep a register of rural land use notices provided by it and is to make that register available for public inspection.	30 31
(4)	A Council may charge a reasonable fee for providing a rural land use notice or for inspection of its register of rural land use notices.	32 33
(5)	A rural land use notice may be included in any other notice issued by a Council in relation to a proposed sale of land.	34 35

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<b>6</b>	<b>Effect of rural land use notices</b>	1
(1)	This section applies to proceedings (other than criminal proceedings or proceedings by or on behalf of a government agency) taken:	2
	(a) under the <i>Protection of the Environment Operations Act 1997</i> , or	3
	(b) under any other Act or law,	4
	for an order or other remedy to limit, prohibit or otherwise impede the use of rural land for an activity for an agricultural purpose or agricultural management purpose.	5
(2)	A court or other body that is determining proceedings taken by the owner of land (the <i>affected land</i> ) adjoining or adjacent to rural land must, if the owner was given a rural land use notice when purchasing the affected land, take into account the fact that the owner purchased the affected land knowing that the rural land was or could be used for the activities referred to in that notice.	6
(3)	In any proceedings, production of a copy of a rural land use notice relating to rural land attached to a contract for the sale of land under which an owner of land is the purchaser is evidence that the owner purchased the land knowing that the rural land was or could be used for the activities referred to in the notice.	7
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## **Part 3 Miscellaneous**

### **7 Act to bind Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

### **8 Nature of proceedings for offences**

Proceedings for an offence under this Act or the regulations may be dealt with summarily before a Local Court.

### **9 Regulations**

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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