

Submission on the Agricultural Land Use Planning Strategy Issues Paper

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Table of contents

Opening	3
Background	3
Response	3
Issue 1: Long-term availability of productive land for agriculture	3
Issue 2: Making it easier to set-up and conduct business	5
Issue 3: Reducing land use conflict and supporting dispute resolution	6
Conclusion	7

Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to provide feedback on the issues raised in the Agricultural Land Use Planning Strategy Issues Paper. Agriculture is a significant contributor to the economy – local, regional and national - and is also an important part of the fabric of our regional and rural communities. It provides direct employment and employment through service industries and contributes to the lifestyle that draws many people to live in our rural areas.

Implementing strategic plans that reflect what their community wants as well as addressing State-driven planning targets can be a challenge for councils. In planning for and supporting their communities, councils work to balance the needs of the agricultural sector with the broader demands of urban growth, particularly in peri-urban areas.

Background

The Agriculture Commissioner released an Issues Paper in August for targeted consultation, seeking feedback on the following potential components of the Strategy:

1. Long term availability of productive agricultural land;
2. Making it easier to set-up and conduct business; and
3. Reducing land use conflict and supporting dispute resolution.

The Issues Paper prompts a further set of considerations under each of these three topics.

Response

Issue 1: Long-term availability of productive land for agriculture

The protection of agricultural land is critical to the future of agriculture in NSW and the provision of fresh healthy food for the growing population of NSW, Australia and beyond. The importance of agricultural land is highlighted in the State government's regional and district plans across NSW. For example, direction 10 of the Hunter Regional Plan, *protect and enhance agricultural productivity*¹, aims to increase agricultural productivity in the region and protect land suitable for agriculture from incompatible development. Another example is strategy 24.3 of the Greater Sydney Region Plan, *protect and support agricultural production and mineral resources (in particular construction materials) by preventing inappropriately dispersed urban activities in rural areas*² which highlights the importance of agricultural production for the greater Sydney metropolitan area.

As noted in the Issues Paper, nine of the State's ten Regional Plans recognise the importance of mapping valuable agricultural land to support councils' strategic planning and decision

¹ https://www.planning.nsw.gov.au/~/_media/Files/DPE/Plans-and-policies/hunter-regional-plan-2036-2016-10-18.ashx

² <https://gsc-public-1.s3-ap-southeast-2.amazonaws.com/greater-sydney-region-plan-0618.pdf?pMbPYxwen5IHq4GSB6td4yKiKVogFi4c>

making. Councils have prepared Local Strategic Planning Statements for their areas³ and have addressed the relevant objectives, strategies and directions relating to agriculture in their local planning documents.

The identification and mapping of state significant agricultural land, in consultation with local councils, would provide increased support to councils in protecting this land for agricultural use. Councils would benefit from a clearer regime of planning policy and mapping to support the retention of productive farmland and other rural land which has the potential for agricultural use, including clear guidance on incorporating these provisions in their LEPs and Development Control Plans (DCPs).

Recommendation 1: *The NSW Government should identify significant agricultural land, including mapping and provide guidance for councils on incorporating relevant provisions into LEPs and DCPs.*

However, significant agricultural land will be difficult to define as it varies depending on the specific sub-industry, location, proximity to services/markets etc. Productivity of the land may not always be the critical factor. Ultimately the definition of state significant agricultural land won't be one size fits all and local circumstances need to be taken into account.

Once defined, there must be certainty around the status of significant agricultural land within the planning framework. For example, the new Tweed Valley hospital site – now approved as State Significant Development - is partly on State Significant Farmland (identified under State Environmental Planning Policy (Rural Lands) 2008). There is little point in defining significant agricultural land if it is not going to be recognised as such and protected for that purpose.

Recommendation 2: *The definition of significant agricultural land needs to allow for a variety of factors that may vary across NSW. Once it is defined, it must have certainty of status within the planning framework.*

The viability – and therefore significance - of agricultural land can also be affected by factors such as land size and ability to operate unimpeded within regulatory controls. Fragmentation of agricultural land can occur through the subdivision of larger farms into small lots, known in the rural zone as concessional lots.

Concessional lots were introduced as an interim state-wide outcome during the 1960s and 1970s to support farmers to retire and remain on the main site⁴. Generally, this meant that dwellings would be built on both the smaller lot and the remaining farm. Additional houses were originally intended to support family succession planning or to provide housing for farm workers. However, often lots were subdivided and sold with the additional dwelling entitlement which ultimately created lots used for residential purposes within the rural zone.

One of the aims of State Environmental Planning Policy (Rural Lands) 2008 was to remove concessional lot provisions from LEPs to minimise land use conflicts and fragmentation of rural lands⁵. This policy recognised that concessional lots had been misused and led to unplanned residential development in areas of commercial farming, land fragmentation, land use conflict and increased demand for infrastructure and services in remote areas.

³ <https://www.planningportal.nsw.gov.au/publications/local-strategic-planning-statements>

⁴ https://www.newcastle.edu.au/_data/assets/pdf_file/0004/574717/Land-Use-In-Rural-Zones-Tweed-and-Cabonne-Shires-Final-Report.pdf

⁵ <https://www.planning.nsw.gov.au/-/media/Files/DPE/Circulars/planning-circular-state-environmental-planning-policy-rural-lands-2008-05-09.pdf>

During October 2017-January 2018, the then Department of Planning and Environment (DP&E) exhibited the Explanation of Intended Effects (EIE) for a proposed Primary Production and Rural Development SEPP for consultation. According to the department's consultation report⁶, 115 submissions were submitted on the EIE including 29 submissions from councils. The consultation report indicates that the most commonly raised issue in the submissions was the proposed change to allow subdivision of a lot in the rural zone less than the minimum lot size if the lot contains an existing dwelling. The following extract from page 7 of the report indicates that this proposed change was strongly opposed:

Almost all submissions on this issue opposed the proposal including strong objections from the Department of Primary Industries, NSW Farmers Association, the Planning Institute of Australia and the majority of councils who provided a submission.

Some of the issues raised in the 2018 submissions included:

- the proposed change would lead to land fragmentation and land use conflict, particularly if a house was built on the balance rural lot which would be contrary to the intended use of the lot for primary production;
- the proposed change would have the unintended consequence of allowing the gradual conversion of land into small rural lifestyle blocks and the risk of lots being acquired by people with little farming experience; and
- the proposed change was regarded as the reintroduction of concessional lots.

Due to the strong opposition to the proposed change, the department did not proceed with the proposed amendments. Therefore, the policy position of the 2008 SEPP which prevented the creation of further concessional lots was retained in order to minimise land use conflicts and fragmentation of rural lands. This strong opposition from councils indicates their commitment to protecting rural land for agricultural use.

Urban encroachment can also affect viability of agricultural land either through the demand for land causing conversion to other uses to be more profitable (for example to meet population growth pressures), or by closer proximity of dwellings / changed expectations of neighbours inducing land use conflict, both of which can impact on agricultural operations. Demand for residential land in peri-urban settings is perhaps the biggest driver pushing agricultural operations to move or close, and although it is most evident in the greater Sydney metropolitan area it also affects regional centres.

The use of the land for urbanisation has an obvious impact in terms of reducing land available for agriculture, however the proximity of residences can give rise to other challenges such as:

- concerns / complaints about noise, odour, traffic;
- if a buffer zone between the uses is required, who should provide/pay for it.

Recommendation 3: *In order to protect existing agricultural uses from urban encroachment, LGNSW seeks clear policy direction for councils on appropriate buffers to be provided on the land being developed rather than on the adjoining farmland.*

Issue 2: Making it easier to set-up and conduct business

⁶ <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/Policy-and-legislation/Primary-Production-SEPP/primary-production-and-rural-development-responses-to-submissions-report-2019-02-28.pdf?la=en>

Due to the diversity of areas across NSW, LGNSW advocates that planning requirements need to be flexible and allow for local decision making in response to the local context and conditions.

Blanket state-wide approaches to planning provisions may present barriers to the establishment of agricultural uses and be inappropriate to local circumstances across NSW. However, certainty in the status of agricultural land and clarity around planning requirements such as buffer zones etc would assist agricultural businesses have the confidence to invest and set up in an area.

Recommendation 4: *The NSW Government should provide clarity and certainty around land status and planning requirements to increase industry confidence.*

LGNSW suggests that providing ongoing education for the wider community on the community benefits of farming activities and their typical impacts may assist in promoting the establishment of agricultural land uses and minimising land use complaints and conflicts.

In addition to broader community education, conveyancing processes and promoting the *Living and Working in Rural Areas Handbook* can be used to increase awareness and inform potential residents what to expect from living in agricultural areas. Several councils have 'new resident' information packs and/or provide information for prospective residents (eg [Camden Council](#)) about what to expect when living in a rural area.

Recommendation 5: *The NSW Government should build awareness in the broader community, and especially prospective residents, of what to expect from living and working in a rural area.*

The agricultural industry could also be encouraged by measures to support the longevity of the sector. For example, building the sector's resilience to equally substantial challenges such as climate change, land degradation and water security. This would provide benefit to landholders as well as potentially minimise some of the land use conflict drivers. We note that Local Land Services publishes a Rural Living Handbook 2020, which outlines responsibilities and considerations for rural landholders.

Recommendation 6: *The NSW Government should encourage and assist farmers to adopt sustainable and environmentally friendly farming practices (e.g. chemical use and application, waste management, water use) as this may assist in the long-term sustainability and productivity of farming activities and also reduce land use conflicts.*

Issue 3: Reducing land use conflict and supporting dispute resolution

As outlined above, land use conflict can be a significant barrier to agricultural production for farmers. Some land use conflicts between neighbours and farmers are ongoing neighbourhood disputes. Resolution of these disputes is often difficult and can involve significant time and resources. Generally, councils would welcome an independent conflict resolution body or mediation assistance to facilitate resolution of farming/residential disputes.

The Department of Primary Industries, through the Intensive Agriculture Consultative Committee, has also given consideration to how the process of commenting on DAs or lodging complaints could be handled to protect the ability for individuals to identify concerns but discourage vexatious complaints. This work to date could provide some further suggestions on supporting conflict resolution.

Overall, minimising land use conflict is likely to require a number of measures working together, such as:

- having clear planning frameworks that recognise significant agricultural land;

- increasing community awareness of what to expect when living / working in agricultural areas;
- incorporating buffers into non-agricultural land approvals;
- where buffers cannot be incorporated, provide guidance on alternatives, particularly for historical zoned residential land that cannot incorporate minimal buffer requirements;
- mediation assistance.

Recommendation 7: *A program of complementary measures is needed to address land use conflict related to agricultural operations.*

Conclusion

Local Government NSW welcomes the opportunity to provide feedback on the issues raised in the Agricultural Land Use Planning Strategy Issues Paper. We support work to identify significant agricultural land, and to recognise its status in the long term, and recommend that clarity in planning frameworks and mapping would assist councils in making decisions on development applications and facilitating strategic land use planning to support agricultural industries. Reducing land use conflict through clear planning, awareness and buffers will assist the stability and longevity of the agricultural industry.

LGNSW notes that the NSW Agriculture Commissioner has made significant efforts to consult with councils on the Issues paper. We would be pleased to assist the Commissioner with further consultation on the issues, particularly in reaching out elected officials and senior staff within councils.

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