

**Submission to the  
Central West Rural Lands inquiry  
April 2007**

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**NSW Farmers' Association Background**

NSW Farmers' Association (the Association) is an apolitical voluntary industry body representative of the whole farming community in NSW. Through its commercial, policy and lobbying activities it provides a powerful and positive link between farmers and the public.

## **Executive Summary**

NSW Farmers' Association is supportive of the Central West rural lands inquiry particularly because the traditionally agricultural area is experiencing arguably greater development pressure than other agricultural areas in the state due to its close proximity to Sydney. As such how the Department of Planning and Local Councils manage the amendment of their Local Environmental Plans (LEP's) under the recently amended Environmental Planning and Assessment (EP&A) Act has precedential importance for these other agricultural areas in the state.

The Association has developed a number of policy positions on the issue as a result of internal and external policy discussions as well as our land use planning survey of farmers in the state conducted in late 2006.

The latest Associations policy with respect to land use planning bears a significant relevance for the tenure of our submission to the inquiry and is as follows;

*That the Association support:*

- a) the simplification of land use planning to reduce duplicity, cost and time delays;*
- b) land use planning decisions being made at a local level using local data and consultation;*
- c) the usage of alternative dispute resolution mechanisms prior to any court proceedings for land use conflict issues;*
- d) the retention of dwelling entitlements in perpetuity;*
- e) the erection of workers dwellings on productive agricultural land;*
- f) the removal of clauses within Local Environmental Plans which impose or facilitate native vegetation provisions in excess of the Native Vegetation Act; and*
- g) the implementation of 5 year reviews of all rural Local Environment Plans.*

*That the Association believe, in order to minimise future rural/urban interface land use conflict, rural/ residential subdivision should;*

- a) be near existing urban centres;*
- b) be of a size commensurable with being residential land;*
- c) be located on lower quality land;*
- d) have a preference for clustered development; and*
- e) not unduly impact upon existing natural resources.*

*That the Association oppose the imposition of environmentally sensitive land use corridors on private land.*

The Association looks forward to further involvement with the inquiry and its outcomes. In particular we would appreciate further clarity on how the inquiry findings will relate to Local Environmental Plans (LEP's) which have commenced or concluded in the region and its relevance to land use planning in other areas within the state.

## **Introduction**

Land use planning issues are increasingly impacting upon farmers and the farming community as subdivision, rural residential development, urban encroachment, the intensification of agriculture and Government legislative intervention upon the rural/ urban interface occurs. The increased incidence of land use conflict is a natural by-product of this trend, an outcome which will inevitably worsen as competition for finite land resources intensifies into the future.

Traditionally agricultural land use planning issues were mainly prevalent in the regions surrounding major metropolitan centres along the coast. This is not surprising given that 85% of Australia's population is located in these areas. However in more recent times a number of factors have led to agricultural land use planning issues being experienced throughout Australia.

The Central West area is particularly experiencing increasing population from urban based dwellers who are seeking to pursue rural lifestyles. Similarly, as transport infrastructure and telecommunication technology improves access to the area, State and Local Governments are coming under increasing pressure to house and service this population. Given this pressure, it is of no surprise that farmers (who own 74% of land in NSW) are experiencing unprecedented urban encroachment and land use conflict.

This encroachment is occurring in some of the states most productive agricultural land with regions surrounding major urban centres in Australia accounting for almost 25% of Gross Value of Agricultural Production (despite comprising less than 3% of Australian agriculture land area).<sup>1</sup> The Central West typifies this trend from an urban encroachment and productive agricultural land perspective.

## **Responses to the inquiries terms of reference**

### **1. Establish the extent, value and location of agriculture in the Central West Region of NSW;**

NSW Farmers' Association believes other parties are in a better position to comment on this issue. Needless to say, agriculture is arguably the most significant industry in the Central west area along with manufacturing, mining and tourism.

It is valued at over A\$600 million annually with wool, cattle and wheat forming the core of the industry and significant growth occurring in areas such as horticulture, dairy farming and viticulture<sup>2</sup>.

Agriculture is the largest industry in the area in terms of employment (14%), followed by mining, retail (13%) and manufacturing (12%). However, education and health and community service industries are also significant employing 8% and 9% of the total workforce.

### **2. Identify the key land use planning threats to the regions ongoing viability;**

NSW Farmers' Association believes that the majority of land use planning issues threatening viability in the Central West are also relevant in the rest of the state.

In particular the Association lists the following;

- a) Land use conflict
- b) The complexity, duplication, costs and time delays associated with development approvals

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<sup>1</sup> Change and continuity in peri-urban Australia, Houston

<sup>2</sup> Department of State and Regional Development

- c) The imposition of native vegetation type provisions by Councils in excess of the Native Vegetation Act
- d) The removal of farmers dwelling entitlements
- e) The lack of an alternative dispute resolution mechanism to the court system for land use conflict issues

We will now elaborate on each of these issues.

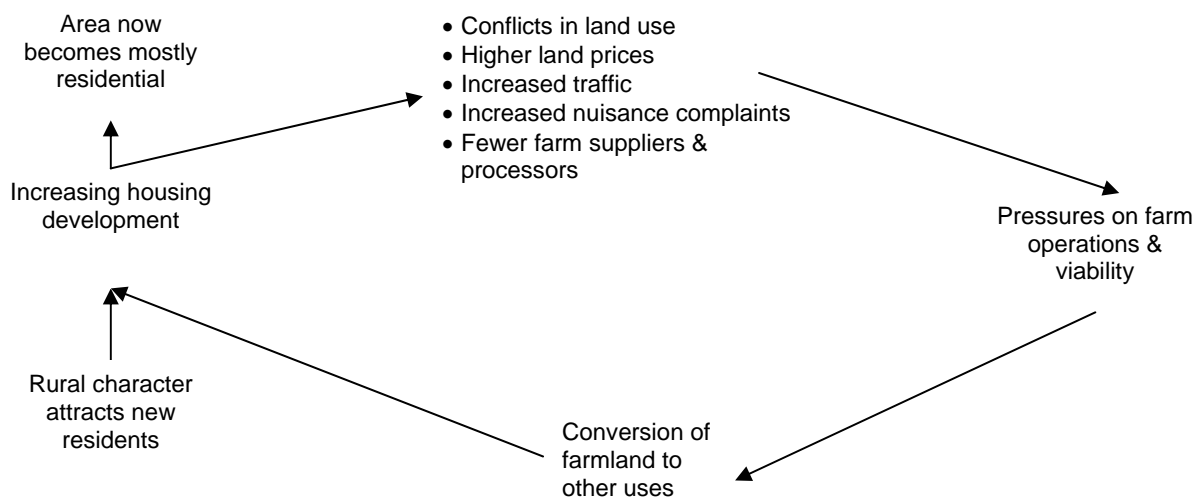
a. Land use conflict

Poor Local Government decision making in relation to development/ subdivision approvals in the Central West region has often resulted in land use conflict and court action. Unfortunately land use conflict has not been given enough consideration prior to these subdivision approvals and accordingly many farmers have had to bear the brunt of vexatious complaints from rural residential dwellers whose rural amenity lifestyle expectations have not been met.

In many of these cases extensive subdivision has also created concerns regarding future water availability, access to electricity, sewage contamination of waterways, poor weed management, increased bushfire risk, damage caused by uncontrolled domestic dogs, the creation of unsightly shanty communities and potential biosecurity concerns. However Local Government cannot be solely to blame for such problems as poor State Government management of National Parks and state forests has also led to weeds, wild dogs and bushfire issues on neighbouring agricultural land.

These issues have had a significant impact upon the viability of affected farmers. In some instances farmers may also find themselves in a situation where the only solution is for that parcel of land to be rezoned for subdivision to allow the farmer to exit the area.

The problems associated with extensive subdivision is effectively captured in the following graph.



Source: Daniels and Bower, 1997, *Holding our ground: Protecting America's Farms and Farmland*.

b. The complexity, duplication, costs and time delays associated with development approvals

There are currently too many Government bureaucracies (and a lack of integration between them) in the development application approval process. Accordingly there is duplicity,

confusion and increased cost and time delays when farmers and other constituents attempt to invest in infrastructure. This is hampering investment and stifling rural economies.

For instance a development application may involve consultation and approval by Local Council, the Department of Environment and Conservation, Department of Natural Resources (now Department of Environment and Climate Change), the Rural Fire Service, the Department of Planning, the relevant Catchment Management Authority and even aboriginal groups.

This is most prevalent with respect to intensive industries where Councils are imposing the maximum Development Application (DA) approval requirements irrespective of the size of the development or potential environmental risk. These issues have created additional and unnecessary cost imposts on such businesses at a time when they are struggling to compete against subsidised imports and/ or are experiencing debilitating reductions in profit margins as a result of the exertion of market power by other supply chain participants.

c. The imposition of native vegetation type provisions by Councils in excess of the Native Vegetation Act

While recent trends suggest a centralisation of planning powers by the State Government, Councils still retain the ability to legally impose native vegetation provisions within their LEP which are in excess of the Native Vegetation Act. For instance due to loopholes in the Native Vegetation Act and Standardised LEP, Councils can create instruments including Tree Preservations Orders and wildlife corridors that nullify routine agricultural management activity and regrowth exemptions provided under the Native Vegetation Act. While this issue is particularly prevalent in coastal areas throughout the state, the issue is also occurring in more inland areas.

d. The removal of farmers dwelling entitlements

The issue of the future removal of dwelling entitlements for rural land holdings smaller than the stipulated LEP minimum lot size, has also created angst among farmers. Importantly this issue is distinct from the issue of concessional lots. Some Councils have proposed a 5 year sunset clause which forces farmers to lodge development applications within 5 years if they wish to build a dwelling or they face the removal of this entitlement forever. The aim of such a clause is to limit the number of land holdings that can have dwellings built on them in future so that the potential for land use conflict is mitigated. To confuse matters those Councils who have proposed sunset clauses within their LEP's have based their decision upon a ministerial direction which is silent on whether dwelling entitlements should remain in perpetuity (as has historically been the case). Notably there is no requirement within the EP&A Act or Standardised LEP for such a sunset clause to be included in LEP's. NSW Farmers' Association has sought clarity on this issue from Minister Sartor's office though a reply has not yet been forthcoming.

This has a significant impact upon farmers' viability as many farmers bought their current parcels of land with the expectation that this entitlement should remain in perpetuity. If this is removed then asset values and farmers ability to obtain additional finance may be negatively impacted.

e. The lack of an alternative dispute resolution mechanism to the court system for land use conflict issues

Currently the only recourse for farmers and rural/ residential dwellers in a land use conflict is through the judicial system. This is an adversarial, slow and costly process which will not necessarily result in the resolution of the conflict. NSW Farmers' Association believes there should be an alternative dispute resolution process such as mediation available as a precursor to the court system. Naturally this would not preclude an individuals right to take court action if they so wished.

### **3. Assess the net benefit of agricultural land uses in terms of economic, social and environmental benefits**

NSW Farmers' Association believes other parties are in a better position to provide objective data and analysis on this issue.

Suffice to say agriculture in general has traditionally and continues to provide an important economic, social and environmental contribution to the Central West region. Farmers businesses not only provide direct employment and income benefits to these rural and regional communities but also provide indirect or multiplier support through the goods and services that they consume.

Farms and farming systems vary considerably across the Central West region. Grazing industries dominate the eastern highlands and western plains. The central slopes and inner plains are subject to extensive winter cropping and the areas around Mudgee and Orange are used for intensive viticulture and horticulture.

Naturally the comparative economic contribution of these industries to the region varies according to market and seasonal conditions with the on-going drought being the most important factor impacting upon farm profitability in recent years.

The ABARE 2006-07 farm survey results indicated the following;

	<b>Average farm business profit</b>
Wheat and other crops	\$-112,300
mixed livestock–crops	-62 500
beef industry	-40 500
– farms with less than 300 beef cattle	-45 896
– farms with more than 300 beef cattle	-37 535
sheep	-50 100
– farms with less than 3000 sheep	-53 684
– farms with more than 3000 sheep	-44 339
sheep–beef	-29 400

Common cropping enterprises adopted on farms in the Central West include, bread wheat, barley, oats, canola, triticale and pulse crops such as lupins and field peas. Less common cropping enterprises include chickpeas, fababeans, durum wheat, safflower, linseed and opportunity seed harvesting and hay production from clover and lucerne pasture. There are a number of specialist seed growers for various winter crops. Very few dryland summer crops are grown in the region.

Common livestock enterprises include sheep for wool production, merino ewes and wethers, and cattle for yearling and bullock beef production. Less common livestock enterprises include store first cross lamb production, lamb and mutton trading, vealer production, beef feedlot backgrounding and cattle trading. These enterprises are usually undertaken opportunistically, when buying and selling thresholds are reached. Some farmers who have sheep for wool production also join cast-for-age ewes to either a dorset or border leicester ram to produce first cross store lambs or replacement breeders for second cross lamb producers. There are a number of sheep and cattle studs and some second cross lamb producers in the region.

### **4. Advise on a preferred land use planning approach to ensure the continuation of agriculture, which takes into account social, economic and environmental factors. The approach is to identify an appropriate mix of strategic, statutory and incentive based mechanisms;**

Optimising land parcel sizes and the pattern of subdivision in rural landscapes is a complex biophysical, economic and social problem demanding flexibility and an array of tools.

Problematically, there is a divergence of views among farmers regarding subdivision. For instance, some farmers wish to retain the ability to subdivide their agricultural land to provide a potential income source if required with the average age of farmers, drought, declining agricultural terms of trade and rising land prices providing additional incentives in this regard. Other farmers conversely believe that agricultural land should not be unduly fragmented by subdivision as this reduces the amount of productive land available for agriculture, increases the potential for land use conflict while increasing land prices making it more difficult for other farmers to buy land to gain economies of scale.

NSW Farmers' Association is supportive of the principle of the Department of Primary Industries' (DPI's) methodology paper for the determination of minimum lot sizes as it provides a transparent and quantitative approach to a problematic issue. However the Association believes that the methodology document needs refinement and is only one of a suite of tools that should be taken into account when determining the most appropriate land use size in rural settings.

The pattern of subdivision should primarily be based on biophysical analysis to identify the optimal locations for farming and residential landuse. This analysis should be refined with reference to economic, social and environmental information layers such as the internal logistics of the existing and future agricultural systems, availability of infrastructure, and demand for residential development.

The Association also supports the utilisation of predominantly 'local' data, consultation and information when determining minimum lot sizes. This is imperative given that there may be large environmental, socioeconomic, agronomical, climatic, economic and topographical variations between one rural Local Government Area (LGA) and another. To this end, if these variations can be demonstrated to be significant within LGA's, NSW Farmers' Association supports the utilisation of 'farmer reference groups' so that minimum lot sizes can be determined down to as small an area as possible taking into account the council's particular resource and budgetary constraints.

Accordingly NSW Farmers' Association encourages Councils within the Central West region to form consultative groups with farmers to provide local data to determine minimum lot sizes and to provide a two way medium for consultation with respect to their LEP's.

The Association also supports the utilisation of a number of mechanisms to prevent land use conflict such as;

- Increased education of prospective neighbours regarding the inevitable byproducts of agricultural production ie smells, noises etc. One option in this regard is the introduction of mandatory S149 certificate clauses issued to prospective buyers of adjoining land which state warnings about the impacts of agricultural enterprises.
- Reciprocal rights obligations ie where buffer zones that apply to new agricultural developments are also applied to new residential developments thereby preventing land use conflict.
- Transferable development rights, ie where development rights are transferred from low density areas to high density areas.

The Associations most recent policy regarding land use conflict is also relevant;

*That the Association believe, in order to minimise future rural/urban interface land use conflict, rural/ residential subdivision should;*

- a) be near existing urban centres;*
- b) be of a size commensurable with being residential land;*
- c) be located on lower quality land;*

- d) have a preference for clustered development; and
- e) not unduly impact upon existing natural resources.

**5. Provide specific advice on establishing minimum lot sizes and/or subdivision constraints through Local Environmental Plans and the appropriateness of the Department of Primary Industries' methodology for determining minimum lot sizes, including the issue of off-farm income.**

As stated previously the Association is supportive of a holistic approach to the determination of minimum lot sizes with the DPI's methodology paper offering one of a suite of tools in this regard. The fact that minimum lot size is not the only determinant of financial viability or environmental sustainability provides ample reason why other factors need equal consideration.

However the Association also believes that the DPI's methodology document requires amendment so that is more reflective of current agricultural business practice. To this end the Association supports the amendment of the document so that it takes into account;

- a) The equity levels of local farmers through farmers reference groups

Currently the methodology document assumes 100% equity levels which is unrealistic particularly given the current drought. Average levels of farm debt for broadacre farms in NSW in 2005-06 was \$289,887 with equity levels at 90% only because of inflated land values which are not reflective of agricultural returns on investment. Rural lender Rabobank has stated that farmers owed a total of \$44 billion at the end of last year with the rate of farm debt increasing by between 7 per cent and 9 per cent a year.

- b) Non-agriculturally related off-farm income (rather than just agricultural off farm income)

Off farm income is a valid and essential component of most farm budgets. Farming families often seek off farm income to augment their variable farming income. While this income may be in agriculturally related fields such as contracting, share farming and labouring; it is also often in areas unrelated to agriculture such as teaching, share dividends, mining or nursing.

Importantly it must be recognised that many farming families seek off farm income from non-agriculturally related sources so that at least a proportion of income is shielded from the vagaries of climate and commodity markets.

Also of note is that off farm income allows farmers to have a productive base to ensure that their properties are sustainable in terms of land use.

Currently the model only takes into account agriculturally related off farm income which is not reflective of modern farming families.

- c) Capital appreciation of land

NSW Farmers' Association believes the framework should take into account capital appreciation of land.

Capital appreciation of land is important to consider as it is used by farmers as collateral to borrow against. In the 2004/05 financial year, the average land prices for broadacre farms sold in Australia rose by 44%, following on from an average increase in farm prices of 19% in 2003/04 (Elders Rural Property Index). If such rises did not occur, many farmers would not have been able to secure the additional finance borrowings that have allowed them to survive the current drought.