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INQUIRY INTO RURAL HOUSING AND SECOND DWELLINGS REFORM

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A new policy for strategic horticultural development, conservation and job creation on the North Coast of NSW.

A Discussion Paper

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Abstract

Many land parcels in rural areas of the north coast have become too small for sustainable beef cattle production, and costs of maintaining the land are too great for landholders to bear, resulting in increased land degradation. The north coast is ideal for strategically planned intensive horticultural development, but capital costs are high.
This paper seeks to explore the use of sub-division subject to pre-requisite economic and conservation planning considerations as a way of bringing these issues together to create improved financial, agricultural and conservation outcomes for selected north coast farm land.

The Issues

Current Policy

The NSW Dept of Planning and Environments Guidelines on Rural Settlement on the North Coast of NSW do not address the requirement for sub-division of unsustainable grazing rural land into more sustainable intensive agriculture size lots. North coast council's adherence to these guidelines (40 Ha policy) in their respective LEP's has created a virtual hold on rural sub-division. These restrictions on rural sub-division created in the 1970's do not have relevance to current land use problems.

Where did the 40 hectare policy come from?

In 1973 the then State Planning Authority of NSW introduced a general minimum lot size of 100 acres (40 hectares) in all non-urban zones outside the Sydney region. The policy was published in the Authority's Circular No. No. 67 called "Policy regarding subdivisions and residential development in non-urban zones" and clarified in Circular No. 74.
The policy was a response to growing concerns about the spread of residential blocks in rural areas. Problems associated with this included fragmentation of viable farms, inflated land values affecting farm economics, loss of agricultural land, and the uneconomic diversion of services away from towns.
The imposition of the blanket 40 hectare standard across the state was not related to the needs of specific areas. The Planning Authority in setting the arbitrary standard made three things clear:

1. **It recognised the need to ensure genuine rural activities were not stifled and to maintain a modest provision for the genuine rural dwelling.**
2. **It acknowledged that small lot agriculture and rural residential development were legitimate forms of rural development, but**

emphasised that they needed to be specifically planned for, with special zones and planning provisions.

3. **It expected councils to carry out a comprehensive review of rural subdivision policy in the future, taking account of the agricultural, soil and economic characteristics of their particular area, with a view to identifying those areas where a different minimum area may be justifiable.**

Since its introduction the 40 ha minimum has come to be used to override more specific planning objectives and has become an excuse to do nothing.

Sub-division

Sub-division in rural areas has resulted in lot sizes diminishing rapidly as successive generations split larger titles to realise financial returns. Lot sizes have inevitably slipped below those required for sustainable livestock production in most rural or semi rural areas. Currently, around 300 - 500 acres of prime agricultural land is required to sustainably farm beef cattle. Allotments of this size are rarer in coastal shires and most beef farmers are scratching a living from much less. Many more non graziers have agisted cattle on their land, a form of weed control more than a legitimate grazing operation. The reduction in the demand for beef is creating an even greater need for diversification of farming and lot sizes.

Agricultural land values V's rural residential land values.

Key areas of highly productive land have been overpriced for agriculture due to the "tree changers" that are changing the land values by building large expensive houses on 40 Ha lots, with no intention of farming. These lifestyle lots have made land in the vicinity unaffordable for the business returns that can be expected from anything but the most capital intensive horticulture ventures such as Macadamia, which is currently marginal at best.

Sustainable farming

The cost of maintaining riparian zones, fencing off dams, creeks etc. is expensive and unlikely to be met by the owners of agisted cattle. Grazing on small acreages does not provide the returns necessary to effectively manage country, especially where steep slopes and erosion are an issue. Farms are often managed with the input of substantial sums of off farm income.

Road safety

A study by Dr Daniel Ramp from UNSW indicated that a quarter of all accidents involving vehicles and livestock between 1996 and 2005 occurred in the northern rivers region (N/star 29/8/09). Poor fencing was cited as the reason for this. Agisted and unsustainable grazing properties typically have poorly maintained fences.

Land / water degradation

Unsustainable farming practices lead to land degradation that result in the loss of prime agricultural land. Beef cattle production on small lots that are not intensively managed leads to land degradation such as weed infestation, mass movement (slumping and creep). Water quality can be compromised by short distances of creek line being used by large numbers of cattle. Returns from small grazing lots are such that intensive management becomes too costly. Macadamias also contribute to very large amounts of topsoil loss, with up to 4t per Ha/yr.

Incentives for sustainable development

Whilst statutory bodies are ever concerned and legislating for the pursuit of sustainable agricultural development, effective policy based incentives remain a largely elusive goal. The conventional “bottom line” is still the biggest impediment to sustainable land management. Rising costs hinder the landholders’ commitment to land management, especially where operations are marginal. The opportunity cost of doing nothing (the equivalent of locking up productive land) needs to be offset to a larger degree by policy based incentives.

Rural Residential zones

Zoning for the expansion of rural residential areas is taking place as a result of the pressure from population growth and migration of affluent urban dwellers towards a country lifestyle. In many cases, new comers to the country life style are ill equipped to manage land for beef cattle and opt to manage for conservation outcomes instead. Unfortunately, this often results in the spread of weed species as the level of commitment is often underestimated. The result is that beef cattle farmers are affected by weed seed from neighbouring properties i.e. Grounsel weed and Devils Fig

Elderly land owners

Often elderly land owners are burdened with the maintenance and up keep of family land that is no longer financially sustainable. Unable to sub-divide, they are often forced to sell their homes in order to avoid letting the property maintenance go unheeded.

Prime agricultural land

Prime agricultural land is often thought of as ideal grazing / broad acre cropping land that aught not be sub-divided to protect its financial viability. It is, however, a product of soil type, aspect, rainfall and topography. Many smaller holdings have the capacity to grow tree crops or small crops viably. The capital required to establish these farming ventures is much higher than other alternatives. Sub-division offers a potential capital raising that can be invested in such intensive farming ventures. The current tax incentives for investing in intensive agriculture are insufficient and require modification to work.

Locally grown food is becoming a sought after commodity with the resurgence of farmers markets and local distribution networks. This initiative needs to be supported by planning for more sustainable horticulture locally.

Planning for decentralised population growth

As demand for housing on the north coast grows rapidly, it becomes prudent to discuss both decentralised development strategies and new residential sub-divisions. Currently, these decentralised strategies are stymied by outdated council policies. Population in SE Queensland and NNSW is set to increase vastly over the coming decade. With planned releases of rural residential land around existing villages and high density developments along the coast, increased demand on local food production will follow. Rural zoned land capable of producing food will need to be utilised more effectively to provide the agricultural infrastructure necessary.

A new policy

Using the preceding arguments it stands to reason that a new approach to environmental planning is required when it comes to north coast rural land. The solution must fit the problem. Change should take place slowly and without inequity or the possibility of unscrupulous speculators taking advantage of new policy. Sub division can be allowed only in areas that merit permits. Merit needs to be defined carefully by applying land use management principles, legal covenants, planning policy, conservation planning and differential rate structures. A tiered approach should be considered, one that offers incentives over time with the benefits that only time can deliver. This paper proposes that two incentive outcomes for land holders be realised over a five year period according to the merit of the proposal. The incentive outcomes are:

- Special lower rates levied against land that meets conservation criteria.
- The right to subdivide properties over 17 Ha into two equal size lots.

To become eligible for these rights, measurable criteria would need to be strictly met. The right to subdivide would necessarily require the first incentive to be met as a pre-requisite.
The criteria to be met for qualification for conservation rating might look like the following.

- Land parcel over 17Ha (40 acres) and less than 200Ha
- Land falls within LGA's identified areas for intensive horticulture.
- Unaffected by planning constraints i.e. Prime ag land protection.
- Rural 1(a) or 1(b) zoning.
- Survey to 1m contour intervals.
- Identify, map and prepare professional Property Vegetation Plans for all conservation zones (mandatory areas to include 50m either side of centreline of all drainage lines)All other zones to be included must be

justified by demonstration of existing conservation value or unproductive land.
- Application to statutory body to outline the sustainable land use capability, boundaries and land value of the proposed divided lot.
- Budget for conservation works to constitute a minimum % value of the value of the proposed divided lot.
- Fence off zones and exclude stock if required.
- Place covenant over the proposed zones to secure future land use as conservation only. This may be modelled or copied from the NPWS Voluntary Conservation Area scheme.
- Completion of detailed submission to statutory body including evidence of all the above.
- Ongoing annual reporting to statutory body over five year period to uphold conservation rate structure.

Further to these, the criteria to be met for the right to subdivide might include.

- Primary production status.
- Different dwelling permits on new lots withheld for tiny homes or flood affected homes (moved from flood zone)
- Land parcel identified within Council strategic plan for intensive horticultural operation.
- Show adherence to and compliance with regeneration plans.
- Using satellite imagery, plot vegetation increase over five year time period.
- Submit detailed business plan for intensive horticultural operation on remaining lot.
- Submit DA for subdivision into two lots.
- Lots should be as closely based on catchment areas as possible.

A Typical Planning Scenario

A landholder from an identified holding of between 40Ha and 200Ha and that has significance for the growth of intensive horticulture would approach council stating their intent to apply for the right to subdivide their land. The land parcel would be desktop assessed by council to ensure compliance with strategic planning policy objectives and that no planning constraints are present. The land owner would then receive an information pack detailing the pre-requisite actions and plans required by council to determine the success of the application. The landholder would then submit an application for subdivision containing something like the following:

- A 1m contour surveyed plan of the property with existing vegetation identified clearly, as well as the presence of other features such as dams, roads, overhead lines etc.

- A detailed Property Vegetation Plan, showing existing veg, planned vegetation and a bush regeneration plan, including on going maintenance and reporting.

- A boundary locating the extent of the proposed sub-division and justification for the location of the boundary.

- A clear indication of whether dwelling entitlement will be required on the newly created lot and justification of such i.e tiny home or flood affected house.

- A business plan outlining the proposed intensive horticultural use of the block to be retained by the owner, including an independently assessed rate of return for the venture.

- A covenant or similar protective legal instrument for the extent of land to be used for conservation purposes.

Council would then assess the project based on its merits and capacity for the land to support the proposed business venture. Once the assessment process is complete, the council then issues a consent to subdivide that is subject to a three year freeze. This enables the land owner to leverage the consent against a bank loan to pay for the regeneration of the conservation areas identified. The consent also triggers the ability to apply for low interest govt. loans especially designed to fit in with the subdivision scheme, as well as grants that supplement loaned money.
At the end of the first year of the project, the council can be requested to re-zone the conservation areas and levy a less expensive rate accordingly.
At the end of the project, council staff would undertake a comprehensive assessment of the success or otherwise of the regeneration of the conservation zones and recommend either un-freezing the development consent or further time required for project establishment.

Financial

Tax

Tax incentives for re-investment in intensive agriculture following subdivision would need to be applied for and the preceding criteria above met prior to eligibility. Proposed tax incentives include but are not limited to:

- Capital expenditure refunds of 30% of the cost of the asset.
- Increased rebates for off road diesel use.
- All tree stock planted to be considered as an expense for tax reasons.
- Rebate for on farm inputs compost production.
- Rebate on cost of specialised training required.

In addition to the tax incentives, new farmers may need assistance in marketing their products. An extension service designed to assist intensive farmers that qualify for the above incentives to market and sell their goods for maximum returns would be required.

Funding opportunities

As many people that may benefit from the above policy are not in a position financially to afford the initial costs for establishment of conservation zones, it is imperative that other funding options are found.

(i)Private investment
The preferred option, where the land holder will invest their own funds to achieve their objectives.

(ii)Regen. Loans
Green loans offered by financial institutions against the value of the land and a statutory body guarantee that green division will eventuate and pay back loan.

(iii)Private sector partnership
Companies set up to manage regeneration projects and handle administration with a stake in the new green lot to be created / sold.

(iv)Government grants
Funding available for conservation based projects may tailor programs to suit this style of investment, perhaps on a dollar for dollar basis.

The impact on real estate prices.

Real estate prices may vary in areas subject to this policy. It is likely to be dependant on the consent or otherwise to have a dwelling entitlement on the divided block. Where infrastructure is not an issue, a dwelling entitlement may be considered by council. However, it is stressed that this decision should be made on a case by case basis and according the merit of the proposal. Where dwelling consent is given, prices may rise, or otherwise fall if the area is designated solely for horticultural use. A better option may be to approve the construction of rural workers dwellings and limit the floor space according a predetermined formula.

The erosion of the rates base.

As some land will fall inside the proposed conservation zones and become unrateable, there will be some erosion of the rates base. This is expected to be minimal, due to the limitations set on the conservation zones outlined above. The erosion that does occur will be partially compensated for by the fees for DA approval on new lots, reduced government spending on landcare grants plus the rate increase that would result from some higher land values.

Conclusion

Without new thinking for new times, we may fail to realise the potential of our resources, and fail to protect biodiversity that sustains our healthy land. This discussion paper presents an avenue for both to occur. It offers incentives that until now have not been considered by planners, where the costs of the incentives are not bourn solely by the public purse. With further research and policy development, these ideas have the potential to create an industry around conservation management of selected north coast farmland with flow on benefits such as food security and rural economic development. These policy ideas deserve further exploration by government, councillors, staff and anyone with an interest in planning for a more sustainable future.

Update on state of play:

This paper was first drafted in April of 2009 and circulated amongst my peers, all north coast councillors and local MP's for comment and appraisal. After various forms of feedback and modification, I began a round of meetings with DPI, Regional Development Australia staff and financial institutions, as well as informal discussions with conservation representatives and the EDO.
Again the discussion paper was modified to reflect the information I had received. I then began a round of meetings with strategic planning staff at four LGA's to identify demand for the policy ideas and further investigation into planning impediments to food security in general.

After meeting with four local councils planning staff (Kyogle SC, Byron SC, Lismore CC and Tweed SC) and outlining my ideas, I have requested letters of support for a funded investigation into the broader subject of planning impediments to food security on the North Coast. LCC and TSC and KSC have thus far sent me a letter indicating they support my ideas.

In 2019 I submitted this paper to Lismore City Council for review with regard to their strategic planning policy.

2023 Meeting with Janelle Saffin to discuss proposal, she will take ideas to the minister in May.

Footnote: After consultation with NSW planning authorities it appears there are no impediments to the implementation of such a scheme under current regulations.

Feedback is welcome and encouraged.
Please contact Stuart McConville on or email