

Submission on NSW Government Agricultural Land Use Planning Strategy - Options Paper January 2021



Acknowledgement to Country

Byron Shire Council recognises the traditional owners of this land, the Bundjalung of Byron Bay, Arakwal people, the Widjabal people, the Minjungbul people and the wider Bundjalung Nation.

We recognise that the most enduring and relevant legacy Indigenous people offer is their understanding of the significance of land and their local, deep commitment to place.

Dear Commissioner

Thank you for inviting Council to provide feedback on the Agricultural Land Use Planning Strategy (ALUS) Options Paper.

Overall, Byron Shire Council supports the need for an Agricultural Land Use Planning Strategy. We commend the Department of Primary Industries (DPI) in association with the Department of Planning, Industry and Environment (DPIE) for working with local government to address ongoing issues impacting agriculture in land use planning.

Our community recognises that for our farmers and other rural entrepreneurs to succeed, the development framework should support our existing strengths and emerging opportunities. Agricultural land protection alone will not deliver a viable agricultural sector. Experience tells us healthy and productive rural landscapes, engaged well-connected rural communities and efficient and reliable infrastructure are equally important.

Byron Shire Council, as with our neighbouring local government areas, are well advanced in land use planning measures to protect important farmland and ways to support our important agricultural sector.

The Northern Rivers Farmland Protections Project 2005 advocated via the North Coast Regional Plan 2036 and LGA local growth management strategies has placed this area in a sound land management position for over 15 years. Our good quality agricultural land (regionally- and state-significant) is protected under a RU1 Primary Production Zoning and generally a 40ha minimum subdivision lot size. Careful consideration, including engagement with our rural industry sector, ensures any changes to land uses in this zone or other zones in our rural areas enable a more secure, diverse and viable agricultural industry. The role out of the Far North Coast Environmental Zone review, with Byron Shire well advanced, delivers a new approach to environmental zoning on the Far North Coast to support farming and protect the environment.

On a daily basis Council staff (land use planners, environmental scientist, engineers, compliance officers and community development officers) engage with farmers, land care groups and the broader rural community. Assistance is broad; on-ground work, technical advice and supporting farmer well-being.

We appreciate other parts of the state may not be this well-advanced. In this context, our submission whilst responding to the options put forward by DPI, importantly seeks:

- > an approach grounded in a collective sense of land custodial stewardship
- respect and recognition of traditional landowners deep knowledge of the land, harvesting food sustainably and how to care for and nourish land
- appreciation of the diversity within the farming sector and land with farming potential hence policies to cater for and acknowledge diversity
- a response to emerging pressures/opportunities such as global trends and events, including climate change and regenerative farming
- recognition of the role and value of Council rural land use strategies with continued allowances for local responses and provisions
- acknowledgement that state regulations and policies outside agriculture affect the right to farm and access to farmland.

We would welcome the opportunity work with DPI as well as the DPIE on ways to elevate the ALUS scope within the Northern Rivers. We consider our area to be poised to take agricultural land use planning initiatives to the next level and the next generation.

In preparing this feedback we are networked with:

- Byron Shire Strategic Business Panel
- Agricultural Cluster Group a local advisory group of farmers
- Byron Farming Network (local producers and land holders).

We also notified key groups in our rural sector of the options paper availability.

The following provides the explanation to the above request

Abbreviation references in table: BRLUS – Byron Rural Land Use Strategy NCRP – North Coast Regional Plan NRFPP Northern Rivers Farmland Protection Project

Our	Icques area antion in	Cupport	Whylwhy not?	Do you think the colution will be	What changes might make the calution more effective?
Our	Issues area - option in	Support	Why/why not?	Do you think the solution will be	What changes might make the solution more effective?
ref	paper	the		effective in mitigating or	
		option		addressing the relevant issue?	
	Column reference	✓ YES	A	В	C
		× NO			
Cha	pter 1: Minimise the loss of	productive	capacity		
	Non statutory				
1.1	Rural Land Use Planning Policy	•	Due to the NRFPP mapping and NCRP, the principles as identified on page 7 of the option paper are essentially in practice in Byron Shire and reflected in the BRLUS.	Only be effective if the state government, mining and tourism sectors are also bound by the terms of the policy.	Retaining land is only part of the solution. Measures need to: - manage tenure/market price for rural land in localities where lifestyle living is highly desirable - support farmers who enhance farmland/produce by being more in sync with healthy environments such as vegetating watercourses and naturalised wind breaks. Recommendations: R(i) Two principles added: - Non-agricultural land uses in rural areas should not undermine long-term viable ongoing access to productive farmland. - Agricultural land should be maintained with the view to supporting enhanced quality of agricultural land and farm productivity using natural area environmental restoration/enhancement measures and regenerative practices.

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ref	paper	the	l	effective in mitigating or	What shariges ringht make the solution more chestive?
101	papor	option		addressing the relevant issue?	
	Column reference	✓ YES	Α	В	С
		× NO			
1.2	Option 1. Identify	✓	Mapping is a familiar tool to	Will be effective if the mapping of	Recommendation
	Production Areas		planners and farmers with the	land is not solely reliant on past	
			capacity to layer in spatial	European farming practices and	Identification of production areas gives consideration to:
			information at a regulatory level.	identification of farmland.	·
					R(ii) a blended capability analysis framework, similar to
			Need to be flexible and regularly	Effective if done on the ground	the recreational opportunity spectrum or the
			reviewed as what may be	rather than from a desk in Sydney.	ultimate environment threshold analysis techniques.
			productive in an area now may not	Prime land classifications from	
			be in the future. For example	based on mapping at a high scale	R(iii) grading production types on their capacity to
			Northern Rivers has transitioned	(1:40,000) has the capacity to be	address /manage climate change. Agriculture that
			overtime from logging to dairy &	too simplified and lacking in local	places less environmental demands (such as need
			bananas to macadamias and	context.	for water or chemical control) or are climate change
			emerging horticulture, nursery and		resilient could be prioritised over high impact/
			bush tucker.	Productive land mapping should	demand agriculture. Such as comparing bamboo to
				be informed by:	cotton production as a source of fibre, or natural
				guidance from traditional	grassland feed stock to feedlot.
				owners on knowledge how to	
				integrate Aboriginal farming	R(iv) facilitating productive area transitioning to more
				and land care techniques	resilient agriculture. Include assessment of
				role of ecosystem services	probable risks and mitigation of impacts relating to
				provided from surrounding	bushfire, flooding, biosecurity, pest plagues.
				natural areas	R(v) a framework to help buffer core production areas or
				emerging agriculture and	to accommodate complementary land uses – this
				capacity of agricultural land	could include organic farming enclaves.
				agriculture being austainable kijable amidet	Codia include organie farming chicaves.
				sustainable/viable amidst	R(vi) protecting or enhancing important crop/animal
				climate change	production areas with management/education on
				impacts/opportunities.	production arous with management outdution on

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	Column reference	✓ YES	A	В	С
		× NO			
				Work force availability and upskilling services in the locality, where relevant.	urban area backyard garden, roadway and parkland practices.
1.3	Option 2. Monitoring and Reporting of Loss of Rural Land		Support only on the basis that monitoring the 'loss' of this land would be carried out by DPI as this is not a cost nor technical area appropriate to local government. Reiterate comments in R (iv) above.	Rezoning is not the sole cause of agricultural land loss. Rezoning can be refused/ regulated with a sound strategic planning. In Byron Shire loss is more likely due to: — the expansive range of nonagricultural land uses permitted in the rural zones — more silent threats to long term farmland such as a house on rural land in a scenic/desirable location, which can see the land transition from a farm to a rural lifestyle property and the resulting escalation of land values that make it unlikely to ever return to farming uses — environmental degradation /climatic change.	Productive land should not only be seen as area of typically mono-culture cropping or animal production. Certain public infrastructure can integrate with agriculture such as energy generation (e.g. wind farms and biogas capture) or sewerage treatment plants (recycled water sources for non-food crops). Byron Shire Council currently merges its Bangalow sewerage waste plant with bamboo growing. Need to support a better connection between production land capacity – ecosystem services. For example eucalyptus forests can be productive growing shitake mushrooms, housing beekeeping, whilst also providing habitat for endangered species such as koalas. In urban areas and peri urban areas, urban farms are a source of local produce whilst being heat island offsets within the urban areas. Recommendation R(vii) Suggest this is rephrased to a positive statement. As worded, it is embedded in a view that 'we have what we have' – it should include measuring (and

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					actively encourage) gains in productive land within the context of produce basins or local food sheds.
1.4	Option 3. Education	√	Support – however needs to recognise that within the pool of planners there are planners that are also farmers and/or very attune to the nuisances of farming in their local area; the education should not be condescending or 'top down' and instead should be a two way flow with the DPI.		See recommendation R (vi)
	Statutory planning frame	work			
1.5	Option 4. State Agricultural Land Use Planning Policy	✓	Essentially such a policy already operates in the North Coast Area for regionally significant farmland.	A per comment in 1.3B above	As per comment 1.2 C
	Amend Ministerial Local Planning Direction 1.5 - Rural Lands to require planning proposals for non-agricultural land use on rural land, or changes to planning controls for rural zoned land to consider agricultural planning principles/criteria and/or the findings of an agricultural impact statement (AIS); Amend the PPRD SEPP	Unsure	Concern as to how rural land may be defined – need to ensure this pertains to 'rural zoned' land and the provisions accommodate the interface with Environmental zoned land, as many rural properties share a mix of both zones.	Any reliance on what could be seen as a mutually exclusive approach to rural land use (i.e. if it is non-agricultural the development has to undergo significant assessment on a case by case basis) could impede the ability of farmers to quickly respond to market opportunities, down turns or an impacting climate change event. Farms as businesses, need to quickly adapt	Recommendation R(viii) The application of the policy and any supporting provisions – need to ensure: a. that an assessment looks at any potential cumulative impacts to farming/agricultural land, local/regional economy and environment and where negative avoided or mitigated b. it addresses how farms provide services to other farms or how the natural environment provides ecosystem services to farms (such as natural pest

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	and/or the Standard Instrument LEP to			to changes in order to maintain/	control)
	require consideration of			bolster income.	c. scope for local Councils to set planning provisions
	suitable alternative			Duran Chira is working with the	for temporary non-agricultural uses, such as rural
	locations, the			Byron Shire is working with the	events (e.g. wedding) that may be utilised to support overall farm income.
	preparation and consideration of an AIS			rural sector to identify appropriate target alternative non-agricultural	Support overall familificonie.
	or, depending on scale,			uses. As a case in example in Aug	
	a land use conflict risk			2020 a rural events framework	
	analysis for non-			was adopted by Council. In this	
	agricultural land uses on			instance Council undertook the	
	rural land — Amend the PPRD SEPP			broader assessment on suitable	
	and/or clause 5.16 of the			alternative locations and the	
	Standard Instrument			consideration of agricultural	
	LEP to more clearly			impacts, scale, land use conflict	
	require consideration of			risk analysis for the uses. The	
	whether potential impacts on agriculture			provisions set a transparent,	
	from proposed non-			consistent and expedited way for	
	agricultural development			farms to apply and be assessed.	
	have been minimised.				
1.6	Option 4a. State	Least	This option relies on councils	-	-
	Agricultural Land Use	preferred	conducting their own mapping if		
	Planning Policy and State	×	desired. It is considered councils		
	Significant Agricultural		would:		
	Land Criteria		have limited funds and skills to undertake this work		
			to undertake this work.		
			be susceptible to local political trands that appretive an a 2 4		
			trends that operative on a 3 -4		
			year election cycle.		

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		× NO			
1.7	Option 4b. State Agricultural Land Use Planning Policy and State Significant Agricultural Land Map	Preferred 🗸	Byron Shire is essentially operating on this option currently - Far North Coast and Mid-North Coast Important Farmland Map (both regional and state significant farmland). However it is important to have a consistent and compulsory policy framework that	To remain effective the process needs to allow for a DPI review on a regular basis or at the request of a Council (e.g. due to special circumstance such as impacts of climate change)	Recommendation R(ix) Review inclusion of irrigated land (and dams) within a stressed water cycle system – this may not be a viable option for the future if water is to be retained for the continued operation of natural systems, which may be important to other types of farms and fishery resources. Greater
10	Option to State	Coond	applies across the state.	Divid land management is heat	consideration could be given to proximity of recycled water sources. R(x) Review the Options paper list of lands as is based on a largely finite in supply approach that does not embrace new production techniques or climate change response. As a case in example, Byron Shire is working with the rural sector to identify capacity to utilise recycled urban water. This has the potential to better use land, previously not suited to many farm uses due to water access limitations.
1.8	Option 4c. State Agricultural Land Use Planning Policy and State Significant Agricultural Land Map - councils opt in	Second preferred	Like 4a, this option is susceptible to local political trends that operate within each election cycle. The agricultural sector needs long term land use security and certainty, particularly as it is vulnerable to market and climate	Rural land management is best achieved through catchment-based land use planning. Local government boundaries often do not align with catchment boundaries, or with regional economies.	R(xi) Develop a consistent and compulsory policy framework that applies across the state. R(xii) As a preferred option it would work better if a group of LGAs within a catchment area (natural and/or economic) are encouraged /required to

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rei	paper		ion			
		opti			addressing the relevant issue?	
	Column reference	✓	YES	A	В	C
		×	NO			
				fluctuations. The capital		work together on local controls suited to their
				investment and growing time of		combined LGA catchment.
				certain crops relies on long term		
				investment security, macadamia		
				trees as a case in point.		
1.9	Option 5. Controlling			a. A preference to retain current	a- Yes as it currently informs	Recommendation
	Land Use in Rural Zones			provisions for the North Coast	zoning determination in the	
	Types of statutory			under Section 9.1 Direction 5.3.	Northern Rivers.	R(xiii) Allowance for a change of zoning of rural zoned
	changes to prohibit non-			Farmland of State and Regional		land to a residential, business, industrial,
	agricultural development			Significance on the NSW Far		environmental (see R(xiv) following) or special
	on SSAL or in rural areas			North Coast Farmland of State	b . Should not be hard and fast	use zone where supported under a as part of one-
	generally:			and Regional Significance on the	rule - the current position in on the	off council-initiated strategic investigations over a
	a Ministerial Direction		✓	NSW Far North Coast.	Northern Rivers Farmland	nominated settlement area which has merit in
	which requires SSAL				Protection Project - Final	terms of other planning issues and the overall
	to be zoned RU1			b . Council has recently adopted 3	Recommendations, February	regional strategic direction .
	Primary Production			LGMS' and a LSPS prepared	2005, which states as part of	
	when councils			consistent with these documents,	council-initiated strategic	R(xiv) Support and strengthen implementation of the Far
	prepare a planning			with; 2 of the LGMS' endorsed by	investigations over a nominated	North Coast Environmental Zone review project
	proposal applying to the land.			the DPIE. The changes proposed	settlement area has merit in	and on-going delivery.
	b Ministerial Direction		×	could substantially impact these	enabling overall regional strategic	
	which prohibits the			forward planning documents. In	direction for other land uses on	R(xv) A Standard Instrument LEP to prohibit particular
	change of zoning of			addition, the provisions fail to	Rural zoned land that is not SSAL	non-agricultural land uses in the RU1 Primary
	rural zoned land to a			address the environmental zone	such as that close to towns.	Production zone should apply to all SSAL, while
	residential, business,			changes currently delivered as		RU1 zones outside SSAL need to have scope
	industrial,			part of Council's Environmental		with economic/agricultural regional variation.
	· · · · · · · · · · · · · · · · · · ·			Zone review process.		
				c. Byron Shire is experiencing	c. Unless the SI LEP is amended	R(xvi) Any Standard Instrument LEP to limit subdivision
	environmental or special use zone.				c. Unless the SI LEP is amended	R(xvi) Any Standard Instrument LEP to limit subdivisi

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	c Amend the Standard Instrument LEP to prohibit particular non-agricultural land uses in the RU1 Primary Production zone. d Amend the Standard Instrument LEP to prohibit any further subdivision of rural land to create new lots with dwelling eligibilities.		×	gradual transition way form large broad hectare agriculture to more niche industries such as cut flower, alpaca farms, native products and bush food. Increasingly small holdings are viable with intensive horticultural production. As well as land use diversification and product value adding at the farm gate. Whilst Council supports prohibiting particular non-agricultural land uses in the RU1 Primary Production zone, State wide standardising may compromise local growth sectors unless some degree of flexibility is built in.	to prohibit many of the non- agricultural land uses that are currently permitted in the RU1 zone, there is little chance that the next generation of farmers will be able to access such land for genuine farming pursuits. Given the finite (and ever-decreasing) amount of SSAL on the Far North Coast, these areas should only be able to be used for primary production purposes under an appropriate zoning (i.e. not for tourism, weddings, etcOutside the SSAL managing land use options need to be cognitive of the agricultural industry base on the	and/or prohibit dwellings should have regard to the potential economic impact on overall properties values in popular lifestyle areas and knock on effects to new generation farmers accessing affordable farmland.
				d. Share farming and community title, in appropriate locations, can be effective in maintaining and/or accessing farming. Collective farming models like this enable people to share skills, experience and farming equipment to improve operational viability.	region. d. there is no point in having land without a next generation of farmers being supported to access land and develop skills. In Byron Shire farms are not generally operated by large farming corporations, as occurs in other areas of the state. Also, need to distinguish between	

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				further subdivision of State/ Regionally significant farmland –vs- other rural land.	
1.10	Option 6a. DPI approval of developments on SSAL and IPAs or Option 6b. DPI advice in relation to development on SSAL and IPAs	Advice agency preferred option	The development assessment approval process takes into consideration matters apart from the agricultural significance of land.	Could be effective should parameters be set for circumstances where development of non-agricultural uses require DPIE and DPI advice.	Recommendation R(xvii) Set parameters for development of nonagricultural uses warranting either advice or approval referral and time limits on response from DPI & DPIE response. R(xviii) If DPIE and DPI are to be approval agencies they are to be accountable for appeal actions based on their 'approval' determination.

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Cha	oter 2: Reduce and manage	land use co	onflict	<u> </u>	
2.1	Options to improve Operational dispute resolution Option 1. Expand the jurisdiction of existing dispute resolution bodies Option 2. Create a new dispute resolution body Option 2a. Ontario Normal Farm Practices Protection Board / British Columbia Farm Industry Review Board - Model A Option 2b. Ontario Normal Farm Practices Protection Board / Wollondilly Rural Industry Community Advisory Committee – Model B Option 2c. Queensland Land Access Ombudsman Model Option 3. Create a new or expanded agricultural disputes jurisdiction in a court or tribunal.		See recommendation	See recommendation	Recommendation R(xix) For all options: a. require more information - uncertainty in administrative matters such as timeframes for the resolution of disputes, the threshold for referral, and the management of confidentiality. b. look to the future and expand to include water resources.

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ref	paper	the		effective in mitigating or	
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	Column reference	✓ YES	A	В	С
		× NO			
Chap	ter 3: Support agriculture		nd grow		
3.1	Option 1. Clarification of	✓		Support a definitions review to	Recommendation
	agricultural land use			more accurately reflect the	
	definitions			impacts of development. With	R(xx) Consider incorporating definitions linked with best
	deminions			focus on outcomes and embed	practice requirements/h performance assessment
				flexibility in the definitions to	benchmarks, such as where visual, spray and
				respond to changing practices.	
				respond to changing practices.	lighting impacts are anticipated.
					R(xxi) Consider defining types of plantation forestry for
					carbon sequestration that may have irreversibly
					impact on the soil characteristics and the
					productive capacity.
3.2	Option 2. Expansion of	✓	Allows for more localised	Support use of precincts where	-
	exempt and complying		response.	local authorities are trying to	
	developments		'	develop industry aggregations.	
				This could include bespoke zoning	
				or overlay maps.	
3.3	Option 3. Buffer	✓	The BRLUS has an action to	Yes if the buffer provisions keep	Recommendation
	guidelines		prepare such guidelines for uses	pace with industry practice.	
	94.4000		in this Shire.	page man made by pragment	R(xxii) In setting buffer need to recognise the
				Implementing buffers requires an	difference between free range/natural pasture
				up to date data base on actual	activities and grain feed.
				farmland use – at a strategic level	activities and grain reed.
					D(vviii) Duffers need to consider key
				Byron Shire has been using	R(xxiii) Buffers need to consider key
				commercial farmland rating return	transportation routes where farm operations are
				information for this purpose.	on a 24 hour basis -changes or traffic that could
					adversely affect practices such as stock grazing
				Road networks should also be	or stock movement/ routes adjacent road
				considered.	corridors; increased road dust on crops.

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	Option 3. Buffer guidelines cont'd				 R(xxiv) Buffers need to have provision for flexibility to help manage climate events and biosecurity risks – e.g. stock moved into buffer areas for their safety or due to temporary loss of usual grazing land. R(ix) In setting buffer for intensive horticulture need to maintain lot sizes of sufficient area to allow for effective separation between the horticulture activities and adjacent sensitive land uses.
3.4	Option 4. Agent of change/initiatory of change principle	Unsure	As the agent of change may be a new agricultural use or agricultural traffic, in an area where there are rural lifestyle dwellers living on rural zoned land. Agree if the agent of change pertains to an agricultural use impacting on an established agricultural use.	Yes	Recommendation R(x) As with buffers need to set a framework where agricultural operations are awarded priority.
3.5	Option 5. Amend regulation on public submissions	√	-	-	-

Further comment: capacity for the past 'zoning' framework to deliver good land use planning outcomes

Zones and land use are impacted by regulation and policy outside the LEP standard template. The ALUS Option Paper concerns regarding agricultural 'zoned' land's core objective/value being eroded holds parallels with other zones such as the residential zone.

Historically having an objective/intent to provide housing for permanent resident housing the residential zones are also being eroded/diversified to accommodate a broader range of development types such as:

- short-term rental accommodation for tourists leading to potentially conflicting uses being clustered together
- work/run a business from home.

Diversification/erosion of outcomes (depending on your view) outside a planning framework, reliant on a one size fits template and facilitated by the NSW government's short-term election policy framework is conducive to poor long term outcomes. This ALUS reflects a step in the right direction offering long term strategic land use considerations and growth management to weigh up economic, social and environmental opportunities, costs, risk and intergenerational equity needs.

The ground work in the ALUS options paper is appreciated and warranted. However a fundamental question revolves around the capacity for 'zones' of the past to deliver the good planning outcomes needed for the future in the context of:

- a need for more secure local food, produce and water supply sources
- farmers increasingly merging farm management with enhanced environmental outcomes such as waterway restoration, habitat planting to diminish land degradation or accommodating a solar farm or wind farm
- current Australian/NSW farms and farmland being feasible in the face of climate change and its effects on water, land, temperature, air pollution etc.
- global mega trends or events
- capacity to link a farm workforce on a seasonal basis
- individual and businesses alike embracing new income/business models to deliver funding for their needs
- individual and businesses alike embracing new land tenure models to deliver farmland
- mining sector largely remaining outside the standard land use planning framework even though it can significantly impact land values and agricultural production.

Zoning provisions needs to be drastically simplified. Tenure and property rights over valuable and increasingly scarce resources of land and water need to be revisited. Incentivising the preservation of the resource requires adaptions at the local/regional level in way that creates an environment of equity, certainty, predictability, and greater flexibility. Designing the right kind of Strategy is paramount. This process needs to avoid regulation and decisions that depend entirely on views of people in power. A successful Strategy requires continued involvement of local governments, farmers and rural community in recognizing conflicting points of view in collaborative and participatory processes