



Tasmanian Farmers & Graziers Association

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A Member Of The
National Farmers' Federation

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Mr Brian Risby
Project Manager
Review of the State Policy on the Protection of Agricultural Land 2000
Department of Justice
GPO Box 825
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November 17, 2006

Dear Mr Risby

Please find attached for consideration a submission by the Tasmanian Farmers and Graziers Association (TFGA) in respect of the Review of the State Policy on the Protection of Agricultural Land 2000.

As per discussions with your office, thank you for the extension of time to allow for full consideration of the report of the Legislative Council Select Inquiry into Planning Schemes.

Should the review committee require any clarification of any points raised in the TFGA submission please contact me to discuss further.

Yours sincerely

Roger Swain
President

Summary

The current Tasmanian State Policy on the Protection of Agricultural Land was put in place to regulate land use activities which reduce the extent of the land base available for commercial agriculture, and protect the right of farmers to undertake necessary management activities on that land base.

A fundamental principle of public policy with regard to farmland, as with all privately owned land, must be to maximise freedom for land owners to manage their land asset to best commercial advantage, including the ability to subdivide and sell parts of it to realise financial value.

On the other hand there is no doubt that Tasmania needs to regulate land management activities which will lead to long term diminution in the size and productivity of the agricultural land base, at least to some extent, so that the future viability of agriculture as a whole is not needlessly compromised.

The TFGA therefore fully supports the principle of a State Policy that protects land resource availability and promotes certainty for agricultural production into the future. The challenge is to recognise and strike a balance between the need to maintain an effective sector wide agricultural land base as a whole, and the need to allow individual farmers the flexibility to manage their land to best commercial advantage.

A revised PAL policy needs to provide for the following:

- 1. The definition of “agricultural use” contained in the current Protection of Agricultural Land Policy should be maintained;***
- 2. The Policy should provide for farmers to build additional dwellings or other farm related infrastructure on farms, as required by those enterprises and in locations best suited to farm enterprise needs, and there needs to be consistency between Local Government Councils in this regard;***
- 3. The Policy should present an orderly and consistent approach to regulating the subdivision of rural land, on the basis of zoning that separates “rural living” from “rural production”;***
- 4. The revised Protection of Agricultural Land Policy needs to provide for strong controls on the capacity of land owners in farming districts, to fetter bona fide farming activities on other properties in those districts;***
- 5. There must be greater consistency between municipalities and efficient decision-making processes. A logical starting point is an audit of all Tasmania’s 49 planning schemes; and***
- 6. PAL needs to be expressed in a way which is clear and unambiguous, to enable consistent interpretation by all planning authorities.***

With ever-increasing economic pressures and community and regulatory scrutiny on the business of farming, the TFGA believes that a fresh approach is required to secure the future of agricultural production in Tasmania.

The TFGA therefore recommends that the Protection of Agricultural Land Policy be linked directly to the Primary Industry Activities Act 1995, as part of a move to develop that piece of legislation further as a foundation for encouraging agriculture in Tasmania.

Introduction

The Tasmanian Farmers and Graziers Association (TFGA) is the State's peak representative body for farmers. Membership totals some 5,000 enterprises covering the wool, meat, dairy, vegetables, cereals and seed production industries. Members are also involved in a range of other agricultural activities, including poppies, berries and pyrethrum, and private forest management and wood production in both native forests and plantations.

Tasmanian agriculture is a major contributor to the state in terms of both economic and employment terms. The sector contributes some 16% of Tasmania's Gross State Product and 20% of State employment (*"The contribution of Agriculture to the Tasmanian Economy"*, TAPG & TFGA, 2006) in addition there is a significant contribution in both areas through forest management and wood production. The following table shows the relative importance of different industries as reflected in farm gate value of product.

2005 Gross Value of Agricultural Production – (Farm Gate)

Sector	\$m
Vegetables	*179.5
Livestock Slaughterings	*221.6
Wool	* 77.2
Dairy (milk)	*160.4
Cereals for grain	* 14.1
Private Plantations	**114

* *'The Contribution of Agriculture to the Tasmanian Economy'*, TAPG & TFGA, 2006

** *Approximate figure: value at time of harvest of trees currently planted to private growers; PFT, pers. comm. 2006.*

We cannot afford to jeopardize the economic contribution of a very important industry sector, through inappropriate legislation. The TFGA believes that protecting the ability of farmers to manage their land to best commercial effect, by minimising the direct impact of land use regulations on farm enterprises, is essential if we are to maintain, let alone increase, the contribution by agriculture to the State economy.

An overarching policy which guides Government decision making with regard to agricultural land, is important if we are to ensure consistency in that regard. It goes without saying that it is most important to ensure that the right issues are addressed in the policy, and that the right positions are adopted with regard to these.

This submission identifies issues which the TFGA believes must be addressed in a revised PAL Policy, and proposes positions with regard to these.

Do we need a PAL Policy?

The purpose of the current PAL Policy, as noted in the Government's call for submissions, is to foster sustainable agriculture in Tasmania by ensuring the continued productive capacity of the State's agricultural land resource.

Farmers are increasingly and consciously embracing the concept of sustainable agriculture. But this can be a deceptively simple concept. "Sustainability" includes two broad categories of issues. On the one hand there are the physical and biological considerations, including: soil condition; water availability and quality; choice of crop; animal stocking rates; pesticide, herbicide and fertilizer use; climate conditions; management of biodiversity; and management of off-site impacts of farming practices.

Equally important are the economic considerations which determine whether farmers remain in business, given the fact that they need to compete successfully in very competitive markets to do so. Examples include return-on-assets, return-on-investment, and other financial management measures.

Sustainability means respect for both economic, and physical and biological, categories equally.

Farmers can more easily afford to invest in management of physical and biological factors relating to sustainable land use practices if they are operating profitable businesses. A very useful thing that Government can do in the circumstances is to provide the following three fundamentals with regard to the regulatory environment they operate in:

- **Certainty** – clear long-term ownership rights to land and water, and rights to manage these to best commercial effect, including the right to be free from unreasonable complaints about accepted agricultural practices;
- **Flexibility** – the right to maximize the economic productivity of their enterprises, by adjusting enterprise focus and structure to meet commercial needs; and
- **Access to Opportunities** – the ability to access the widest possible range of business opportunities open to them.

A revised PAL Policy needs to be designed with the need to provide farmers with certainty, flexibility and access to opportunities in mind. Specifically it needs to be designed to provide farmers with maximum freedom to manage their land base to best commercial advantage, including freedom to improve land productivity for the agricultural industries they enter, and to release for re-investment elsewhere the capital tied up in unproductive land.

A revised Policy also needs to reflect the needs of a market-driven (competitive) approach to land use. We do not support Government differentiating between land uses by telling farmers, for example, who they can sell their land to or what they can or can't grow on it. Market intervention by Government will only serve to limit farmer options, reduce investment and competition and therefore the value of farm land.

Having said that, the association appreciates that there must be appropriate land use planning in Tasmania in the interests of:

- securing future resource availability for industries as a whole, by recognizing the “critical mass” needs of particular industries, such as the volume throughput needs of abattoirs; and
- facilitating the orderly development of an ever-changing farming sector and related rural infrastructure.

The challenge is to recognise and strike a balance between the need to maintain an effective sector wide agricultural land base as a whole, and the need to allow individual farmers the flexibility to manage their farms to best commercial advantage.

The TFGA therefore fully supports the principle of a State Policy that protects land resource availability and promotes certainty for agricultural production into the future. The challenge is to recognise and strike a balance between the need to maintain an effective sector wide agricultural land base as a whole, and the need to allow individual farmers the flexibility to manage their land to best commercial advantage.

Specific Comments on Policy

The following are issues which the TFGA believes it is important to cover in the revised PAL Policy, together with recommendations as to the approach that should be taken to each.

(a) Definition of “agricultural use”

An issue which has been raised in various forums with regard to agricultural land use is what primary industry activities should be regarded as “agriculture”, and specifically whether plantation forestry should be included under that heading.

Many Tasmanian farmers are actively involved in commercial wood production, through native forest and plantation forestry. According to Private Forests Tasmania (PFT), some 1589 individual land owners (equivalent to approximately one third of TFGA membership, and probably some 25% of total farm numbers in Tasmania) include plantations as part of their enterprise mix.

It is important to ensure that wood production remains an option for farmers. Wood production offers a profitable alternative for land which may not be suited for other products, in addition to shelter and other farm values. It also provides another string to the bow for enterprises which need to diversify to manage market risk. Finally, it can provide a less labour intensive option for farmers who are not able to commit to more demanding enterprise options.

The TFGA is well aware of concerns among some parts of the Tasmanian population, including a significant number of farmers, at the impact of plantations on rural land prices, water availability and the social fabric of country communities in general. However, it should be noted that many farmers have no problem with plantations.

A large proportion of the plantation estate on private land is in fact owned by forestry companies and not by farmers. The company owned estate is growing but the rate of growth compared to total number of rural properties is limited. Indications are that since 1999, the number of rural properties purchased by companies for the purposes of establishing plantations is in the order of 1.1% of all rural properties (S. Eldridge, CEO PFT, pers. comm. 2006). This is in spite of the fact that the land purchasing activity of forestry companies under MIS programs has been particularly aggressive during this period. The TFGA is awaiting PFT’s final release of their body of research into this issue, however it appears that the overall impact of such land purchases in the medium term is therefore likely to be limited.

The TFGA believes that concerns relating to plantation development can only be addressed effectively as specific policy issues relating to water interception, taxation, rural social change, and the like. We do not think that regulation of plantations as an agricultural land use through the PAL is warranted.

The TFGA believes that plantation forestry should be recognized as an agricultural use for the purposes of the Protection of Agricultural Land Policy.

The definition of “agricultural use” contained in the current Protection of Agricultural Land Policy should be maintained.

(b) Building of houses on small rural lots

Farmers need the ability to build additional houses, other buildings and other farm related infrastructure, on small rural lots, from time to time for family and enterprise reasons. Location of these buildings and infrastructure relative to existing buildings should be determined by the needs of the enterprise, including minimization of the cost of connecting services.

There are currently restrictions on the ability of farmers to construct additional structures within the same title and building envelope as existing dwellings and infrastructure. There is also inconsistency in the way that different municipalities regulate the issue. These factors need to be remedied.

The Policy should provide for farmers to build additional dwellings or other farm related infrastructure on farms, as required by those enterprises and in locations best suited to farm enterprise needs, and there needs to be consistency between Local Government Councils in this regard.

(c) Subdivision of rural land

Subdivision can be seen as both a major threat to prime agricultural land and an opportunity for farmers to realise the capital value of their land. On the one hand, the productive potential of agricultural land needs to be maintained and on the other, the question of market forces and demand for rural lifestyle and urban expansion needs to be considered.

The logical approach to regulation in the circumstances is some form of zoning. We can see merit in providing certainty and an orderly approach for where rural subdivision can occur through:

- Restricting subdivision of farm properties for the lifestyle market (eg hobby farms) to “rural living” zones identified for that purpose and on land which is in general less suitable for commercial farming; and
- Zoning of “rural production” areas to accommodate commercial farming, including semi-commercial scale enterprises.

We note that rural zoning is only part of the answer to the permanent conversion of agricultural land via subdivisions. In addition we believe that all Councils need to have settlement strategies to address and appropriately plan for future high intensity urban expansion.

We realise that other planning issues are involved, beyond simply land quality, in allocating land to these two different “rural” zones. For example, additional costs are imposed upon local government where it has to provide extra services within a “subdivision” zone.

By having specific rural zones for “rural living” or “rural production” there can be set criteria detailed in supporting Planning Guidelines for subdivisions regarding lot sizes, layout, connectivity between different land parcels and provision of public open space. We are recommending that the RPDC develop planning guidelines (or similar) to facilitate consistent interpretation across Councils.

The Policy should present an orderly and consistent approach to regulating the subdivision of rural land, on the basis of zoning that separates “rural living” from “rural production”.

(d) Fettering

Tasmanian farmers are increasingly being impacted in their farm management by the sensitivities of people who have moved to farming districts for lifestyle or other reasons and who object to the realities of modern farming life. Typical examples relate to people who have moved from cities for the “quiet life”, and object to noise from farm machinery, irrigation spray drift, lights and noise from late night farm management activities, and the use of 1080 in game and browsing damage control.

It is critically important that farmers are allowed to manage their enterprises to best effect in very competitive markets and under increasingly tight manpower and other resource constraints. Any restriction of flexibility in this regard, however minor in an individual sense, increases problems in this regard.

The Primary Industry Activities Act 1995 provides a level of protection for farmers in these circumstances by exempting them from the restrictions which apply to off site land use impacts generally, and the TFGA appreciates this. However the Protection of Agricultural Land Policy needs to reflect this provision, and to do so strongly, through appropriate restrictions on the extent and style of subdivision that can occur within farming areas, as well as a lack of restriction on farm management freedoms in these areas.

The revised Protection of Agricultural Land Policy needs to provide for strong controls on the capacity of land owners in farming districts, to fetter bona fide farming activities on other properties in those districts.

(e) Implementation through Local Government

TFGA is firmly against excessive regulatory controls on farming that come out of Local Government Planning Schemes. These generate substantial expense regimes for applicants and can waste resources for no community return.

PAL needs to protect all agricultural land as a valuable resource; the question should be asked, how many planning schemes across the State have been amended to reflect PAL? We are also aware of Councils applying their own measures that exceed the provisions of PAL and in essence apply an additional level of regulation.

Accordingly with some 49 planning schemes across 23 Municipalities, State Government should as a matter of urgency undertake an audit of planning schemes to provide an accurate State-wide picture of Local Government regulation on farmland and agricultural uses.

Local Government will logically remain the principal vehicle for delivery of planning regulations in the land use area.

There must be greater consistency between municipalities and efficient decision-making processes. A logical starting point is an audit of all Tasmania's 49 planning schemes.

(f) Legislative Council Select Committee Inquiry

The Legislative Council Select Committee inquiry into planning schemes has identified, among other things, a lack of consistency in the planning approach taken by different planning authorities, resulting from a lack of clarity in the expression of State Policies.

A lack of consistency between planning schemes guarantees inconsistency in specific decisions between municipalities, and confusion in the minds of rate payers. This in turn leads to frustration and additional costs for farm enterprises at a time when there is greater market pressure than ever for them to be competitive.

The Select Committee also attributes the lack of inconsistency between planning authorities to, among other things, a lack of clarity in the expression of State Policies.

PAL needs to be expressed in a way which is clear and unambiguous, to enable consistent interpretation by all planning authorities.

The PAL Policy and the Primary Industry Activities Act 1995

The protection of farming freedoms and activities on agricultural land, which is the objective of the Protection of Agricultural Land Policy, is very important to the future of agriculture in Tasmania, but it really remains just half the story. Tasmanian agriculture also needs purpose specific legislation to actively promote productive farming in the context of the many regulatory constraints it operates within.

The Primary Industry Activities Act 1995 provides an appropriate vehicle for legislation of this kind, but in the view of the TFGA needs further development. Detail with regard to that development is not an appropriate subject for this submission and will be addressed in other forums. However it is the view of the TFGA that the Protection of Agricultural Land Policy should be attached specifically to the Primary Industry Activities Act.

The TFGA recommends that the Policy for the Protection of Agricultural Land be linked directly to the Primary Industry Activities Act 1995, as part of a move to develop that piece of legislation further as a foundation for encouraging agriculture in Tasmania.

Conclusion

The current Protection of Agricultural Land Policy has been written in good faith to protect prime and non-prime agricultural land from conversion to non-agricultural use.

Farmers in Tasmania need to have resource security and operational certainty, and minimal Government regulation. At the same time sensible planning by Governments is required to maintain orderly development to foster sustainable agricultural industries for the future.

The TFGA fully supports the principle of a State Policy that protects land resource availability and promotes certainty for agricultural production into the future. The challenge is to recognise and strike a balance between the need to maintain an effective sector wide agricultural land base as a whole, and the need to allow individual farmers the flexibility to manage their land to best commercial advantage.

Specific issues in this connection are as follows:

- Definition of the term “agricultural use”;
- The ability of farmers to establish additional buildings and infrastructure on farms as necessary;
- An orderly approach to rural subdivision relating to the “lifestyle” market;
- Greater consistency in planning between local government councils; and
- Absolute clarity in the expression of PAL.

The TFGA also believes that the Protection of Agricultural Land Policy be linked directly to the Primary Industry Activities Act 1995, as part of a move to develop that piece of legislation further as a foundation for encouraging agriculture in Tasmania.