

# **AGRICULTURAL LAND POLICY**

## **CONSULTATIONS**



## **WHAT WAS SAID**

**June 2016**

**Department of Agriculture, Aquaculture and Fisheries**

## **Message from the Minister of Agriculture, Aquaculture and Fisheries**

Agriculture plays a vital and strategic role in the economic well-being of our province and in particular of rural New Brunswick.

Strengthening this sector through sound land policies is crucial in order to help promote a sustainable industry.

Included in this report are some of the things we heard most often during our consultations related to the development of an agricultural land policy.

This report does not reflect directions or the positions of government. In fact, on some issues New Brunswickers disagree and those differing views will be considered as we move forward on developing an Agricultural Land Policy.

We look forward to working together with all interested New Brunswickers in the development of a policy that will help future generations to farm productively.

Sincerely,

Rick Doucet

## Introduction

Agriculture is an essential part of New Brunswick's economy. Currently, over \$1 billion is generated annually in the agriculture and agri-food sectors, creating over 11,000 full-time jobs on the farm and in the related food-processing industry.

To be viable, farmers need access to good farmland in large enough blocks to farm efficiently. They also need assurance that their investment will not be eroded from non-agricultural development that impedes their ability to farm.

Farmland is a non-renewable resource and is the backbone of all agricultural activities. It takes many years of careful husbandry to bring land to a productive state. Clearing new land is expensive, and rejuvenating lands that have been used for non-agricultural activities is very costly and time-consuming to bring back to production.

Currently, New Brunswick does not have any effective legislation or policies that protect or preserve agricultural land.

## The Process

Between November 2015 and February 2016, the Department of Agriculture, Aquaculture and Fisheries (DAAF) undertook public consultations to engage and seek input from stakeholders on the development of an Agricultural Land Policy.

These consultations consisted of:

- Seven public open houses that were held across the province in Fredericton, Sussex (twice), St-André, Wicklow, Bathurst and Moncton. Close to 200 people, the majority of which were farmers, attended these open houses. Attendees also included members of the general public and other stakeholders, including planning authorities.
- Presentations, dialogue sessions, one-on-one meetings and written submissions with, or from, agricultural industry associations, members of the public and other stakeholder groups in the province, including planning authorities. Approximately two dozen written submissions were received online and by mail.

Throughout the consultation process, the participants were asked to provide comments and input relative to the development of an Agricultural Land Policy. Specifically, they were asked to identify what they felt were the key agricultural farmland issues or challenges that should be addressed by a proposed policy.

## What We Heard

The majority of comments and input received from the consultations were generally supportive of the proposed development of an Agricultural Land Policy. Although support was strong, it should be noted that there were a few respondents who expressed concern about a proposed policy potentially leading to future restrictions on their rights as landowners to use their land as they see fit. However, these represented a small minority of the total respondents who provided comments and input.

Not surprisingly, common themes emerged from the consultation process regarding important agricultural farmland issues or challenges that could be addressed by an Agricultural Land Policy. The themes ranged from a call for various protection and preservation measures, to assistance for increased access to land in order to sustain and expand production. The following themes represent the key messages heard from agricultural producers, the public and other stakeholders:

### I - Protection and Preservation Themes

#### ● ***Topsoil Preservation:***

Topsoil removal from farmland was the most common recurring concern or issue raised during the consultations. The removal or the stripping of topsoil from prime<sup>1</sup> farmland was regarded by many respondents as the most significant and serious issue threatening farmland in New Brunswick.

Respondents suggested that:

- There is a strong need to amend or replace the *Topsoil Preservation Act* to provide the required protection.
- Topsoil removal or stripping should be prohibited on all farmland, especially the most productive or prime farmland with class 2 to class 4 soils.
- Topsoil removal or stripping should be prohibited on those lands registered under the Province's Farm Land Identification Program (FLIP – see next section).
- Topsoil removed from new development or construction projects should be saved and used to help satisfy part of the demand from non-agricultural uses, such as residential landscaping.

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<sup>1</sup> Prime farmland is defined as lands containing class 2 and 3 soils and class 4 soils that have been drain-tiled. The classification of soils is used by the Canadian Land Inventory system to denote the quality and terrain of farmland. Class 2, 3 and drain-tiled class 4 lands are the farmlands which typically grow food.

- ***Changes to the Farm Land Identification Program (FLIP):***

Amending the province's Farm Land Identification Program (FLIP) was the second most common recurring issue raised during the consultations. FLIP is a voluntary provincial property tax deferral program for farm land and buildings, for 15 years with associated interest costs, which was established as an incentive to help keep farmland in production.

Respondents suggested that:

- Changes should be implemented to limit the amount of time that FLIP land may remain idle and still be eligible for the tax deferral. Two years was suggested as a reasonable maximum time period FLIP lands may be idle, before they are put into changing status, which means the landowner will start paying the annual provincial land tax.
- Changes are needed to prohibit the removal and sale of topsoil from farmlands registered under FLIP.
- Broader changes to FLIP were suggested, such as eliminating the program altogether and replacing it with a program to put all farmland under a lower flat tax regime, similar to the woodlot tax rate.
- We also heard farmers sometimes run into problems trying to rent idle lands registered under FLIP, owned by non-farmers, who will only rent the land on a year-to-year basis. This short-term rent does not allow for required investments of nutrients, lime and other infrastructure needs, which leads to depletion of soil quality.

- ***Encroachment:***

Encroachment on farms from residential ribbon development and urban development was a major issue identified by many farmers. With more rural ribbon development in agricultural areas in New Brunswick, farmers are seeing new development being permitted in close proximity to their farms, which may in turn curtail normal farming practices. We heard that encroachment is also leading to increased demand and higher prices for agricultural farmland, which is encouraging some farmers to subdivide and sell some of their farmland.

We also heard that another big challenge associated with encroachment is that new residential owners often do not understand the realities of living near a farm, such as odors, noise, dust, etc., which are part of normal farming operations. As a result, farmers and planning authorities are often the recipients of complaints, and in some cases, restrictions or interference with farming operations may result from these landowner conflicts.

Respondents suggested that:

- Reciprocal setbacks be required for new residential and urban development, as well as any other developments that are not potentially compatible with farming activities. Currently, new livestock operations are required to respect certain setback requirements under the *Livestock Operations Act*, but no reciprocal setbacks exist for new development encroaching on farms.
- From a planning perspective, there is a strong need to establish a complete list of activities or developments that are compatible and non-compatible with farming operations.
- Non-compatible activities or development adjacent to farmland needs to be identified and regulated, or directed to set up elsewhere.

- ***Non-Agricultural Development on Prime Agricultural Land***

Non-agricultural development includes single or multi-residential housing, shopping centers, schools and other non-agricultural construction.

Respondents suggested that:

- New development should be directed away from prime farmland to lands least suitable for agriculture.
- However, some suggested that a balance was needed to respect the rights of the property owners and for retirees, as farmland is often the retirement fund for farmers.

- ***No-Net-Loss Approach:***

There was overwhelming support and consensus for the need to help protect prime farmland in New Brunswick from being lost to development and topsoil removal or stripping.

Respondents suggested that:

- A no-net-loss policy for prime farmland should be implemented, similar to the *New Brunswick Wetland Conservation Policy*, which ensures no loss of provincially significant wetlands and no net loss of other wetlands.
- This type of policy could be applied to farmland being removed from agriculture and permitted to have topsoil stripped from it and farmland being used for development.

- ***Other Protection and Preservation-Related Comments:***

- Application of an Agricultural Land Policy, including any regulations, should be province-wide.
- Farmland in New Brunswick should be placed into agricultural zones or reserves similar to British Columbia's (*Agricultural Land Reserve Act*) to make it more difficult to take out of production. Also, changing the zoning for any land classified as farmland should be more difficult, and any such requests should be reviewed by a provincial board.
- The 2009 *Draft Kennebecasis Plan*, which was never approved and implemented, should be reviewed for relevant and helpful information.

## **II - Land Expansion and Sustainability Themes**

- ***More Access to Crown Lands:***

Many respondents identified the need for farmers to be able to access and use more Crown land for the cultivation and production of crops in addition to blueberries and maple syrup.

Respondents suggested that:

- Crown lands should be made available to farmers living in close proximity to them who have no other available farmland to access and use.
- A clearer and better-communicated process for farmers is needed, which notifies when Crown lands suitable for agricultural production become available and how to apply for them.
- There should be a DAAF staff person appointed to advise and assist farmers with the Crown lands leasing process for farmland.
- Farmers should have access to unused marshland areas.
- Community pastures should be better managed and expanded to the whole province for farmers to use.

- ***Assistance to Clear Farmland:***

The cost associated with farmland clearing, consolidation (e.g., removing fence lines or rock piles), levelling or forming was identified as a significant barrier to bringing

more land into production and thus increasing the land base available for crop production. It also represented a barrier to more sustainable crop rotations.

Respondents suggested that:

- More financial assistance to farmers from the province is needed to help with the costs of improving or clearing new farmland.

- ***Idle or Abandoned Farmland:***

We heard from many respondents that idle or abandoned farmland needs to be put back into production and that the lack of profitability of farming operations is one of the main reasons why these lands become idle or abandoned. Many respondents pointed out that abandoned farmlands, if left unmanaged, typically became overgrown with a dense coverage of alders and other shrub-type species.

Respondents suggested that:

- Idle or abandoned farmland should be made available to existing farmers who may wish to expand their farming operations, as well as new entrants, including young farmers and others from outside of New Brunswick.

- ***New Farmers Needed:***

The need to encourage and recruit more new farmers to move to New Brunswick to farm, from outside of the province and Canada, was identified as an important step towards increasing investments in New Brunswick agriculture and a potential means of bringing abandoned farmland back into production. It was also seen as a potential way for aging farmers to sell their farms as farm operations, where succession is not identified.

Respondents suggested that:

- Better immigration and in-migration policies or strategies are needed to help facilitate and attract more new farmers from outside of the province and Canada.
- A computerized land data bank should be established, which identifies: idle and active farmland that is available for lease or purchase; new entrants seeking to purchase a farm; and existing farmers wishing to expand their operations.
- Changes are needed to the province's New Entrant Farmer Loan Program in order to encourage more new entrants into agriculture.

- **Soil Degradation:**

Erosion, soil degradation, drainage and renewal and maintenance of terraces and ditches were considered in the northwest region of the province, in particular, to be a significant issue. In addition to better crop rotations, these were identified as serious soil degradation issues that affect soil quality in the Region. Factors such as topography, rainfall amounts and soil management practices affect the rate of surface soil loss, which is considered the most productive layer with the best nutrient and moisture holding properties.

Proponents indicated that terracing and ditching were commonly used to help reduce runoff and soil loss and that increased fertilizer applications also helped to compensate in the short-term. However, the resulting increase in production costs may often exceed the profits from the increase in crop yields.

Respondents suggested that:

- Financial assistance from the province was needed to combat the growing challenges with erosion, soil degradation, drainage and renewal and maintenance of terraces and ditches.

- **Stream Maintenance:**

Soil, sand, gravel or other debris (e.g., trees, branches, etc.) can often build up or dam up in streams running through farmland properties. As a result, we heard that productive or prime agricultural lands are being damaged or lost to erosion by streams changing course through farmers' fields. Respondents felt that the current process of applying for, and receiving, a permit under the province's Watercourse and Wetland Alteration Regulation (*Clean Water Act*) is too complicated and takes too long. As a result, prime farmland is being damaged or lost. This regulation requires that any person working in, or within, 30 meters of a watercourse or a wetland is required to obtain a permit prior to doing so.

Respondents suggested that:

- The Watercourse and Wetland Alteration Regulation should be amended or streamlined to allow farmers to more easily and quickly access and remove debris from streams running through their farmland.

- **Ownership Issues:**

Some respondents expressed concern over what they perceived was a trend towards corporate ownership of farmland in New Brunswick. Corporate operations with

vertical business models that look after their own primary production and processing were identified as a particular concern by some respondents. Foreign (absentee) ownership of farmland was also identified as being a concern, as well as ownership by non-farming investors. Farmland in New Brunswick, and all across Canada, has become attractive to investors, including some of Canada's largest pension funds. Some will buy farmland and then immediately lease it back to the original farmer (or another one), leading to a tenant farmer situation.

Respondents suggested that:

- There should be limits or restrictions placed on farmland ownership by corporations and individuals in order to support the sustainability of smaller family run farms. P.E.I., was identified as an example to review.
- There should be limits or restrictions placed on foreign ownership of farmland. It was noted that such restrictions have been implemented by other provinces, such as Saskatchewan and Quebec.
- There should be limits or restrictions placed on ownership by non-farming investors.

### **III - Other Issues or Concerns**

Throughout the consultation process, an extensive amount of input was received from agricultural producers, the public and other stakeholders regarding important agricultural farmland issues or challenges that should be addressed by an Agricultural Land Policy. Although not all of the input received fell under the common themes identified in this document, everything that we heard was documented and will be considered during the development of the subject policy.

Below is a small sample (not all-inclusive) of some of the other concerns we heard that either did not fit in one of the themes above, or were only supported by one party:

- An agricultural strategy should be developed first before developing a proposed Agricultural Land Policy.
- Sustainable and regenerative best practices for topsoil should be promoted and rewarded by offering incentives to farmers, such as tax breaks.
- Sod farming is a form of topsoil harvesting in New Brunswick and therefore should not be allowed.
- All aspects of FLIP should be reviewed.
- A Farmland Trust should be established, similar to P.E.I.'s former Land Development Corporation, to purchase farmland from farmers at a fair price that can then be sold or leased back to new entrants or farmers wishing to expand.

- Government and industry should work together to identify ways to reward and help sequester carbon and reduce carbon emissions by agriculture.
- Farmland protection should include the protection of any surrounding forests and waterways as well.
- Municipalities, Local Service Districts and the province should identify common use corridors for public utilities and sub-surface resource infrastructure to reduce impacts on farmland.
- Watershed requirements should be the same in cases where a farm may be located within two different watersheds.

## **Next Steps**

The many messages and comments or input received throughout the consultation process regarding the important agricultural farmland issues or challenges to address in a proposed Agricultural Land Policy will be considered and used to help guide the development of a policy. A policy is expected to be completed by the fall of 2016.