

INTERSECT

QUICK FACTS

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CERTIFIED AS URGENT: PASS THE NATIONAL LAND USE ACT NOW!

In his second State of the Nation Address (SONA) on 24 July 2017, President Rodrigo Roa Duterte urged the legislators to immediately pass the National Land Use Act (NLUA) to “ensure the rational and sustainable use of our land and our physical resources, given the competing needs of food security, housing, businesses and environmental conservation.” He mentioned this in light of the dangers that climate change continually brings about, such as drought and long dry spells that, in turn, affect food production particularly in Mindanao, where a huge part of the country's food requirements come from.

A national land use policy can help address the adverse effects of climate change on food security. More than dealing with the consequences of this phenomenon, a national policy will guide our leaders and government officials in managing the country's limited land and water resources in just, rational, and efficient ways towards the provision of adequate food, shelter, and other living needs of the people.

In this issue of the *Intersect Quick Facts*, we provide information on the context and rationale for passing the NLUA, present the timeline on its failure in becoming a law since the 9th Congress, lay down its key features, and discuss how NLUA can address the concerns of the various sectors of our society.

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WHY DO WE NEED THE NLUA?

WE HAVE A GROWING POPULATION ON A LIMITED LAND AREA.

The Philippines' land area is finite at 300,000 km². With a population of 100.98 million as of 2015 and an average annual growth rate of 1.72% between 2010 and 2015 (according to the Philippine Statistics Authority or PSA), planning and managing our land to provide for everyone's living needs is becoming difficult and challenging but all the more imperative.



WE USE LAND INAPPROPRIATELY AND EXERCISE PROPERTY RIGHTS IRRESPONSIBLY.

Because of poor land use planning and implementation in cities and municipalities given the absence of a national framework, prime agricultural lands and food production areas are converted into residential or commercial/industrial sites or non-agricultural uses; forests and other protection areas are declared mining sites; and housing of informal settlers are allowed on danger zones.



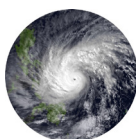
WE HAVE CONFLICTING LAND LAWS.

Various land laws are sector-specific and enacted in a fragmented manner, resulting in conflicts on land and other related interests of the different sectors. Among these laws are the Comprehensive Agrarian Reform Law (Republic Act 6657), Urban Development and Housing Act (RA 7279), Philippine Mining Act (RA 7942), Indigenous Peoples' Rights Act (RA 8371), Agriculture and Fisheries Modernization Act (RA 8435), Philippine Fisheries Code (RA 8550), and Biofuels Act (RA 9367).



WE ARE EXPERIENCING THE EFFECTS OF CLIMATE CHANGE.

The Philippines has been experiencing storms, typhoons, and dry spells that are more intense than they used to be. These have resulted in loss of lives and properties, damage to crops, and even entire communities that were leveled down to the ground.



NLUA'S LONG STRUGGLE

The passage of the NLUA into law has been elusive for more than two decades now, notwithstanding the prioritization or certification as urgent by four Philippine presidents since the bill was first filed in the 9th Congress.

9TH CONGRESS JULY 1992 - JUNE 1995

The first bill on NLUA, House Bill 9892, was filed in July 1993. The following year, Pres. Fidel V. Ramos recognized the need to institutionalize a national land use policy to guide land conversions and allocations.

10TH CONGRESS JULY 1995 - JUNE 1998

The two versions of the NLUA bill in both houses were not passed into law. Pres. Ramos's Administrative Order 363, which sought to protect prime agricultural lands, did not deter illegal land conversions because it lacked punitive measures (Ochoa 1999, 168).

11TH CONGRESS JULY 1998 - JUNE 2001

Multi-sectoral NGOs and people's organizations helped draft a bill that was filed in 1998. In 1999, a counterpart bill was filed in the Senate. In 2000, civil society organizations representing fishers, farmers, indigenous peoples, urban poor, and environmental groups formed the People's Advocacy on Land Use and Reforms or People's Alarm (Batula 2011).

12TH CONGRESS JULY 2001 - JUNE 2004

In 2004, Pres. Gloria Macapagal-Arroyo certified the NLUA as an urgent bill. The House of Representatives passed the bill in its second reading.

13TH CONGRESS JULY 2004 - JUNE 2007

14TH CONGRESS JULY 2007 - JUNE 2010

Several NLUA bills were filed during the 13th and 14th Congresses but none was enacted into law. One reason was the fact that some members of the Congress were real estate owners and might be safeguarding their interests (Ordenes-Cascolan 2017). To reinvigorate the campaign for NLUA, having been shelved for about a year to give way to the campaign for the extension of the Comprehensive Agrarian Reform Program (CARP), People's Alarm renamed itself as Campaign for Land Use Policy Now! or CLUP Now!.

15TH CONGRESS JULY 2010 - JUNE 2013

The NLUA was at its nearest to becoming a law in the 15th Congress. In his first SONA in July 2010, Pres. Benigno S. Aquino III underscored the need to enact a national land use law.

In September 2012, House Bill 6545 was approved unanimously on third reading. Senate Bill 3091 was ready for third reading in January 2013, but reverted to second reading in February as Senators Franklin Drilon, Ferdinand Marcos Jr., and Manuel Villar Jr. still had amendments on the bill. This happened despite the certification of NLUA as urgent by Pres. Aquino, following calls for land use advocates led by CLUP Now!.

16TH CONGRESS JULY 2013 - JUNE 2016

At the start of 16th Congress, Pres. Aquino included NLUA in his six priority legislations. In June 2014, the House of Representatives passed House Bill 4382 on third and final reading.

17TH CONGRESS JULY 2016 - JUNE 2019

The House of Representatives passed House Bill 5240 or the "National Land Use and Management Act" in its third and final reading in May 2017. In the Senate, four bills have been filed but the Committee on Environment and Natural Resources, chaired by Sen. Cynthia Villar, has yet to convene a hearing to deliberate on the bills.

In the second SONA of Pres. Rodrigo Duterte, NLUA was among the bills that he wanted Congress to prioritize. In its second full meeting in August 2017, the Legislative-Executive Development Advisory Council (LEDAC) included the NLUA in its list of legislative measures recommended as "urgent."

KEY FEATURES OF NLUA

The NLUA aims to realize a rational, holistic, and just allocation and use of the country's land and water resources by institutionalizing land use and physical planning for the proper management of resources. It hopes to guide the local governments in their planning and decisions on the use of land that promotes the general welfare and the common good, safeguards the environment, and ensures sustainable development. The following discussion is lifted from House Bill 5240.

NLUA WILL CRAFT A NATIONAL PHYSICAL FRAMEWORK PLAN (NPFP).

The NPFP shall "define the national strategy and objectives of the country's urban, rural and regional development. It shall guide the planning and management of the country's land and other physical resources at the national and sub-national levels, and indicate broad spatial directions and policy guidelines on protection land use, production land use, settlements development land use and infrastructure development." The NPFP should be good for 30 years and subject for review every 10 years.

Physical planning precedes development planning as development plans for a period of 3 to 9 years should be contextualized and formulated on the basis of the physical plans covering 30 years. In reality, however, development planning at the local and national levels is usually performed before physical or land use planning, and this has led to the formulation of irrational and incomprehensive plans as local governments tend to prioritize projects that would leave them a legacy, even if these disregard physical plans. With the NPFP, the local governments learn about the primacy of physical plans over development plans. They are provided with guidelines for conducting rational and comprehensive land use planning activities to serve as basis for crafting the development plans. Continuity of projects from the current administration to the next is therefore more likely.

The proposed physical framework and land use planning will follow a combined top-down, bottom-up approach. Following the guidelines set at the national level, Regional and Provincial Physical Framework Plans, and the Comprehensive Land Use Plans (CLUP) at the city/municipal level shall be formulated to give due consideration to conflicting uses and areas being used. These CLUPs and framework plans are consolidated back all the way to the national level for any enhancement.

NLUA WILL CLASSIFY LAND USE BASED ON FUNCTIONAL PURPOSES.



PROTECTION

refers to the use of land primarily reserved for rehabilitation, conservation, and protection purposes and the promotion of the country's ecological and life-support systems" (e.g., natural and restored forests, rehabilitated and/or restored mining areas, critical ecosystems, and prime agricultural lands)



PRODUCTION

refers to the direct and indirect utilization of land to generate outputs resulting from the following activities: agricultural, fish farming or aquaculture, timber or agro-forestry, grazing and pasture, mining, indigenous energy resource development, industry, and tourism.



SETTLEMENT DEVELOPMENT

refers to any improvement on existing settlements or any proposed development of certain areas for settlement purposes. It also involves the spatial distribution of population, identification of the roles and functions of key urban centers, determination of relationships among settlement areas, and the provision of basic services and facilities of identified major settlement areas or growth centers.

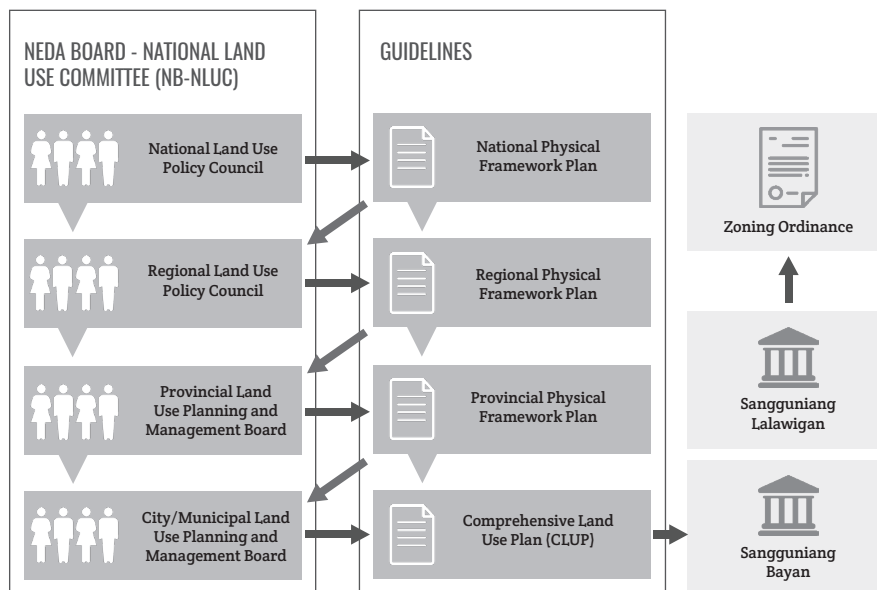


INFRASTRUCTURE

refers to the use of land dedicated to the provision of basic services that foster economic and other forms of integration necessary for producing or obtaining the material requirements of Filipinos, in an efficient, responsive, safe and ecologically friendly built environment. It includes, among others, sub-sectors like: road networks, transportation and communication facilities, social services, and utilities.

NLUA WILL ESTABLISH A NATIONAL LAND USE POLICY COUNCIL (NLUPC).

Taking the powers and functions of the current National Land Use Committee under the National Economic and Development Authority (NEDA) and the Housing and Land Regulatory Board (HLURB) with several exemptions, the NLUPC will be tasked to implement the NLUA. It is the highest policy making body on land use and responsible for addressing conflicting land use issues between or among agencies, branches and levels of the government. The Regional Land Use Committee shall be replaced by the Regional Land Use Council which will replicate the structure of the NLUPC. The Provincial Land Use Committee will also be replaced by the Provincial Land Use Planning and Management Board. Finally, a City/Municipal Planning and Management Board shall be created across all cities and municipalities in the country. Representation from the basic sectors and business/private sectors is institutionalized in these policy and decision-making bodies.



HOW WILL NLUA ADDRESS THE CONCERNS OF VARIOUS SECTORS?

1 NLUA HARMONIZES THE NEED FOR LAND FOR FOOD SECURITY, HOUSING, CONSERVATION AND PRESERVATION, AND INFRASTRUCTURE.

Conflicts arise given the various needs for land. For example, the NLUA has been criticized for prioritizing food production over equally important needs such as housing. The real estate sector contends that stricter rules on land conversion will reduce the availability of housing, including that for the poor (Valencia 2013). The reality, however, is that land conversions for non-agricultural uses have been rampant. Huge tracts of agricultural lands continue to be converted for residential and commercial purposes, yet exclusive of illegal land conversions (Cabildo et al. 2017). And when converted to a housing project, for example, the main clients are not the poor, informal settlers but well-off families. The 7,100-hectare Hacienda Yulo in Laguna is one of the many farmlands that has been turned into a special economic zone (SEZ) that includes gated villages, golf courses, and commercial establishments. None of these provide housing even for a small percentage of the 1.5 million informal settler families in the country (as estimated by NEDA 2016, 12-4). Moreover, 7,100 hectares of agricultural land could have provided food for 142,000 persons (harvest of rice from a hectare of land can feed 20 persons) or at least a third of the 374,000 families who were estimated to have experienced severe, involuntary hunger (Social Weather Stations 2017).

Problems also emerge when locations and boundaries of mining areas are not properly identified and delineated. In the Philippines, 60% of the mining operations are said to be in ancestral domains (Weltzmaier 2012, 335), and the estimated 7 million hectares of land claimed by indigenous peoples (AIPP 2016, 77) include those that mining companies target for future operations. For example, in Tampakan, South Cotabato, a mining company eyes 28,000 hectares

of land for extraction of gold and copper, and this could displace as many as 2,600 families or 40,000 individuals, mostly B'laans (Tampakan Forum 2012). In Abra, 50% of the province's land area have been subject to gold mining applications, where the Binongan tribe has claimed ancestral domains covering an area of 31,610 hectares with about 150 communities (Weltzmaier 2012, 341).

Finally, infrastructure. The Duterte administration launched an ambitious infrastructure program called "Build! Build! Build!" that would construct flood control projects, roads, bridges, mass transit, and airports from 2017 to 2022. Upscaling investment on infrastructure is undeniably important given the poor state of infrastructure in the country—the Philippines ranked 106 out of 140 countries in terms of quality of overall infrastructure (World Economic Forum 2015, 297).

The various and often conflicting demands for land give compelling reason for enacting a national land use policy. NLUA can help identify the appropriate, rational, and just use of land, and set the tone for real and meaningful development in specific localities and in the country. Without such law, those with power and resources can easily acquire and use the land for their selfish ends, and without consideration for the common good.

2 NLUA ENSURES THE INCLUSION OF THE PLANS OF INDIGENOUS PEOPLES' COMMUNITIES IN CLUPs.

For the indigenous peoples, land is considered life and not just as source of livelihood; and a home that is associated to a traditional territorial claim and an identity as a community (Wetzmaier 2012, 228). They thus propose the classification of lands into public, private, as well as ancestral domains to give way to the recognition of their lands.

House Bill 5240, the current version of the NLUA, asserts that the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) shall be respected in the development of agricultural lands within ancestral domains, adopted and

integrated in the CLUPs and investment plans of the local government. It will be supervised by the IP community and the local government, which can utilize zoning ordinances to determine the ancestral domains.

3 NLUA WILL HELP ENSURE SAFE SETTLEMENTS FOR THE FISHERFOLK WITH NEAR ACCESS TO THEIR LIVELIHOOD.

Many people risk living in dangerous places—sometimes forced by their situation—to be near where economic opportunities thrive or are possible. This is especially true for fishers who live in coastal communities despite the many dangers inherent in living in such places. Their vulnerability is aggravated by factors such as their socioeconomic disadvantage—34% of fisherfolks are below the poverty line (PSA 2017). Thus, policies that seek to move them away from danger's way (e.g., the declaration of no-build zones along coastal areas following Typhoon Yolanda in 2013) may do more harm than good. The absence of a national land use policy has allowed such "blanket measures" to be enforced without considering the social and economic impact to the supposedly beneficiaries.

NLUA will mandate the identification of areas within coastal zones that are safe for settlements of fishers. It ensures that areas accessible to the sea and identified as fisherfolk settlement and housing will also not be part of any protected land use area for allocation to the traditional fisherfolk, members of fisherfolk organizations, and holders of stewardship lease contracts or titles to ancestral domains or any coastal resource management initiatives. Public land in the coastal zones will be sub-classified and one of the sub-classification is fisherfolk settlements. A Coastal Zoning Resource Management Plan (CZRMP) will be drafted with the participation of local fisherfolk organizations and other stakeholders such as women and youth. This will be reflected in the CLUP and subsequent zoning ordinances.

NLUA WILL HELP MITIGATE THE WORSENING EFFECTS OF CLIMATE CHANGE AND REDUCE IMPACTS OF NATURAL DISASTERS.

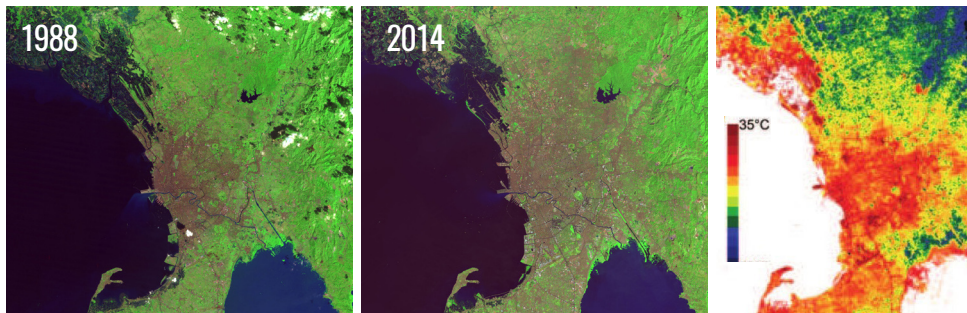
A study by Bianchessi (2012) in Silago, Southern Leyte showed that climate change caused rise in temperature in forest lands and diminished rainfall in coastal communities. The combination of these two factors led to increased and longer periods of drought with side effects such as forest fires, less water for irrigation, reduced yields from rice paddies, and sea level rise leading to flooding in rice paddies near the coast.

Changes in land cover also influence local weather patterns. With more and more areas being cleared of trees and vegetation to make way for concrete buildings, paved roads, and other heat-trapping structures, "heat islands" emerge. In urban areas, this development makes people experience hotter and uncomfortable temperatures especially during the dry season. Warm air also enhances the formation of thunderstorms, which could cause flooding, made worse by impervious surfaces and inadequate drainage as we have seen in many cities such as Manila, Cagayan de Oro, and Davao; the

situation is much worse during the rainy season when as many as 20 typhoons hit the country.

Typhoon after typhoon, the Philippines always faces the massive task of rebuilding, which requires considerable resources and could take up years, at times without significant success. Despite policies and programs that seek to build the capacity of government and communities to prepare for disasters and respond to their impacts, not much attention is given on how to prevent land use changes from turning hazards into disasters. For instance, although urban areas devastated by Typhoon Yolanda had land use plans in place before the disaster happened, these were either outdated or not faithfully implemented, making communities in areas prone to storm surge and flooding to expand (Santos et al. 2016, 57).

Without a risk-sensitive land use planning, people and communities bear the brunt of disasters by paying their lives, assets, and livelihoods. Moreover, land use plans should not cover only the areas within the political boundaries of cities and municipalities, as currently practiced. Given the contiguous locations of cities and municipalities in the country, a national planning framework arising from a national land use policy becomes an imperative.



There is no other region in the Philippines that best illustrates rapid changes in land cover than Metro Manila. The first two images above from the NASA Earth Observatory (2015) show how built-up areas (gray) have expanded from 1988 to 2014. The third image shows the nighttime land surface temperature map of Metro Manila and surrounding areas in 2002; the central areas are the warmest, as seen in red (Tiangco, Lagmay, and Argete 2008, 2806).

NLUA WILL RECOGNIZE THE CRUCIAL ROLE AND RESPONSIBILITIES OF THE LOCAL GOVERNMENT UNIT IN LAND USE PLANNING FOR MEANINGFUL DEVELOPMENT.

The National Physical Framework Plan that the NLUA will provide for, through the National Land Use Policy Council, does not diminish the role of local governments in deciding how land will be used. As House Bill 5240 states, the indicative framework plan "outline[s] the over-all and macro-level physical development objectives, priorities, directions, and strategies" vis-à-vis land use. Thus, it will only serve as guide for local government units in drafting their respective CLUP to ensure their consistency with the National Land Use Plan. Informed by sectoral, temporal, and spatial data from the barangay (including actual boundaries), the CLUP will specify the desired land uses at the local level based on the primary land use classifications that the NLUA institutionalizes—production, protection, settlements development, and infrastructure. Other important plans of the city or municipality such as the Comprehensive Development Plan (CDP) and Local Development Investment Programs (LDIP) will be based on the CLUP, making this planning document even more important.

The local government's roles and responsibilities in regulating the land and implementing the land use plan in their own localities are hence recognized and will be strengthened by the NLUA. The City/Municipal Land Use Planning and Management Board (C/MLUPMB) to be created in all municipalities and cities (including in highly urbanized and component cities) with sector representation will oversee the preparation, integration, adoption, and approval of their respective CLUPs.

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