

# Conservation covenants and funding models: Table of comparisons (Queensland /NSW /Commonwealth)

## Background

Two members of Griffith University's Law School are currently undertaking project-driven research on the operation of the Vegetation Management Act in Queensland. Overall, the project aims to identify opportunities for incremental improvements to the Vegetation Management Act with a view to modernising its approach and aligning its goals and functions with ongoing developments in, for instance, markets for natural capital and ecosystem services. Pursuant to this research, we have compiled the following table of some existing voluntary programs and schemes which fund and support private landholders who wish to dedicate or manage some of their land for conservation purposes. The information is limited to key programs operating in Queensland, New South Wales and at the Commonwealth level. A good source of additional information, covering all Australian jurisdictions, is Australia's Nature Hub at <<https://www.australiasnaturehub.gov.au/>>. This platform provides an online hub for funding programs and schemes of interest.

Philippa England and Nelson Quinn

Griffith University Law School

(16/05/2020)

## Queensland

<b>Nature Assist</b>	<p>NatureAssist targets specific properties that have been identified by the Government's for their significant conservation values, connectivity and their predicted resilience to a changing climate. Landholders of identified properties are contacted directly by the Queensland Government (Department of Environment and Science) to ask if they are interested in participating in the Nature Refuges Program. NatureAssist staff then work with volunteering landholders to achieve mutually agreed projects that formally protect significant conservation values on their land and enhance the resilience of their property. Participation is voluntary and conditional on a nature refuge agreement (under the Nature Conservation Act) being signed by the landholder and the Government. Funding will only be considered when a project has a clear conservation outcome and enhances the resilience and sustainable management of a property. If funds are allocated, the department will manage the project and fund contractors to complete the activities. Examples of activities funded in previous rounds include: establishing artificial watering points away from natural springs or watercourses, erecting fencing to manage stock access, and excluding and controlling pest animals.</p> <p>See further: <a href="https://environment.des.qld.gov.au/wildlife/nature-refuges/nature-assist">https://environment.des.qld.gov.au/wildlife/nature-refuges/nature-assist</a></p>
<b>Queensland Trust for Nature (QTFN)</b>	<p>QTFN is an independent, not for profit conservation organisation. It acts as an agent for landholders wishing to negotiate nature refuges on their land. If the land is suitable, QTFN will help landholders negotiate a Conservation Agreement that will be registered on the land title as part of a</p>

	<p>Nature Refuge Agreement made with the Government (as above). Landholders will be asked to undertake management actions and comply with requirements in relation to the area under covenant. QTFN charges \$3-5,000 for this service. Financial assistance is not guaranteed, but QTFN will advise whether your Council has incentives or grants for Nature Refuge landholders. QTFN also operates a revolving fund buying properties with high ecological values, restoring and protecting them with a conservation covenant and then reselling them on the public market.</p> <p>See further: <a href="https://qtnf.org.au/nature-refuges/">https://qtnf.org.au/nature-refuges/</a></p>
<p><b>Land Restoration Fund /carbon farming and co-benefits</b></p>	<p>Funding from the Land Restoration Fund (LRF) is available to carbon farming projects consistent with ERF requirements if they deliver additional environmental, social and economic <a href="#">co-benefits</a> as measured against the Co-benefits standard. Eligible projects must be: located in Queensland; already registered (but not commenced), being registered, or eligible for registration with the Clean Energy Regulator under CFI Act land sector (agriculture, savanna burning and vegetation) methods; compliant with other existing laws; clearly aligned with one or more of the three Investment Priorities (targeting wetlands and coastal ecosystems including the GBR; threatened species and biodiversity and social and economic sustainability) and capable of generating data for verification as detailed in the LRF Co-benefits Standard. Applications will also be assessed for their value for money. An advice rebate program offers rebates for landholders seeking initial advice. Successful applications will be funded from the LRF for a period of 7 or 15 years. Payments are of two kinds: (a) payment by LRF to land managers on delivery of an agreed number of ACCUs to the LRF (generated by a carbon project contract with the Clean Energy Regulator); and (b) annual co-benefit payments which will be paid over the term of the project (7 or 15 years) upon verification of co-benefit delivery via annual reports. Additionally, Successful applicants can also seek a payment of up to 10% of the value of the contract following registration of the project with the Clean Energy Regulator. This is a pre-payment designed to assist with the set up costs of the project and will be recouped against the future supply of ACCUs and co-benefits. The price for ACCUs is established by the market.</p>
<p><b>Exchange areas</b></p>	<p>Under the Vegetation Management Act, the accepted development vegetation clearing codes require land managers to legally secure an exchange area prior to the clearing of native vegetation for an extractive industry; infrastructure; managing fodder harvesting; managing regulated regrowth; or necessary environmental clearing if the clearing will be over and above specified limits or in sensitive areas. An exchange area must be secured by either a PMAV that shows the exchange area as a category A area and its associated management plan or a declared area (secured through a voluntary declaration) and its associated management plan. See further, General guide to vegetation clearing codes (2020), 19-24;  <a href="https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/exchange-areas">https://www.qld.gov.au/environment/land/management/vegetation/clearing-codes/exchange-areas</a></p>
<p><b>Environmental offsets</b></p>	<p>An environmental offset may be required in accordance with the <i>Environmental Offsets Act, 2014</i>, (QLD) to counterbalance a significant residual impact of a prescribed activity on a prescribed environmental matter. An environmental offset may be required as a condition of approval where—following consideration of avoidance and mitigation measures—a prescribed activity is likely to result in a significant residual impact on a prescribed environmental matter(s). An environmental offset may be delivered by making a financial settlement offset payment into the offsets account and / or by delivering land based offsets and /or delivery actions in a Direct Benefit Management Plan. Land based offsets must be legally secured as, for example, an environmental offset protection area or an area of high conservation value under the Vegetation Management Act in accordance with an environmental offset agreement (Environmental Offsets Act, ss 29, 32). However, an environmental offset agreement can be varied or terminated and replaced by a subsequent environmental offset agreement (s 28).</p> <p>Development that may be subject to an environmental offset includes: a resource activity or environmentally relevant activity approved in accordance with the Environmental Protection Act,1994; activities authorised under other State legislation or identified in the State Development Assessment Provisions made under planning legislation (including clearing native vegetation and development in SEQ koala habitat areas) as referenced in the EP Regulation 2104 (Sch 1); and development for which an environmental offset may be required under a local planning instrument.</p>

## New South Wales

<p><b>Set asides</b></p>	<p>Approvals for clearing pursuant to a Farm Plan or on Equity grounds will require a set aside in exchange for vegetation cleared. A set aside is an area set aside for the purposes of conservation (managed to promote vegetation integrity) and must be in addition to any current publicly funded initiative, offset or existing set aside. Set asides are managed in perpetuity and are listed on a public register. Clearing under an approved Farm Plan cannot take place until the set aside requirements have been met. The area of land required to be set aside is calculated according to the type of clearing, vegetation being cleared and the amount of regulated land on the landholding. If your landholding includes 30% or more regulated land, the set aside ratio is 1 unit for each unit cleared (1:1). If your landholding includes 10-30% regulated land, the set aside ratio is 3 units to each unit cleared (3:1).<sup>1</sup> Landholdings with less than 10% regulated land are restricted to clearing paddock trees.</p> <p>See further, <a href="https://www.ils.nsw.gov.au/help-and-advice/land-management-in-nsw/resources">https://www.ils.nsw.gov.au/help-and-advice/land-management-in-nsw/resources</a></p>
<p><b>Conservation Management Program</b></p>	<p>The Biodiversity Conservation Trust (BCT) BCT is a statutory not-for profit body. It administers the Conservation Management Program and the Conservation Partners Program and also fulfils certain roles under the NSW Biodiversity Offsets Scheme. The BCT's Conservation Management Program (CMP) is aimed at encouraging and supporting private landholders, in 'priority investment areas' or with 'conservation assets' on their property, to participate in conservation. Priority investment areas and conservation assets are identified in the Biodiversity Conservation Investment Strategy (BCIS) developed by the Environment Minister. The BCT uses three voluntary mechanisms under the Conservation Management Program to encourage and support private land conservation in NSW. It makes fixed price offers to secure conservation areas in priority investment areas. Landholders can express interest at any time to enter a funded, in-perpetuity conservation agreement. The BCT assesses applications on a value for money basis in two batches each year subject to investment allocation. Landholders can also apply for an essential infrastructure grant to assist with establishing a conservation area. The BCT also uses conservation tenders to target conservation assets listed in the Biodiversity Conservation Investment Strategy. Each year, the BCT may call for landholders—in priority 1 to 3 investment areas or in other locations containing conservation assets—to express interest in participating in a conservation tender. Landholders can offer to enter an in-perpetuity or term (minimum 15 years) agreement. Thirdly, the BCT maintains a revolving fund which is used to purchase properties for sale within priority investment areas or that contain conservation assets. Properties acquired will be sold with a pre-commitment to enter an in-perpetuity and funded conservation agreement at the BCT's fixed price.</p> <p>See further, <a href="https://www.bct.nsw.gov.au/conservation-management-program">https://www.bct.nsw.gov.au/conservation-management-program</a></p>
<p><b>Conservation Partners Program</b></p>	<p>The BCT has been allocated \$350 million over the next five years to implement its Conservation Partners Program. It offers landholders who do not receive funding under the CMP (above) some additional funding options. Conservation (including maintenance) activities may be funded if a landholder has: an unfunded conservation agreement; a trust agreement; a registered property agreement; a wildlife refuge agreement; or if they are a participant in the Community Environment Network's (CEN) Land for Wildlife Program or the Humane Society International's (HSI) Wildlife Land Trust program. Funding rates range from \$2,000 per year up to \$15,000 per year.</p> <p>The BCT offers voluntary <b>conservation agreements</b> to conserve biodiversity and <b>wildlife refuge agreements</b> on term contracts. In-perpetuity conservation agreements are available for landholders who wish to protect the biodiversity on their property but are not seeking, or are ineligible, for conservation</p>

<sup>1</sup> The ratios are 1.5:1 and 4.5:1 for vegetation which is part of a vulnerable ecological community. Endangered and critically endangered communities cannot be cleared for this purpose. See land management Code – Farm Plan.

	<p>management payments under our Conservation Management Program. Conservation agreements are registered on the title of the land. Eligible properties should have a minimum 20 hectares proposed to be managed for biodiversity but smaller properties may be considered by the BCT if they contain very high conservation values or meet other strategic objectives of the BCT. Wildlife refuge agreements are an entry-level option for landholders who wish to protect the biodiversity on their property but do not wish to enter into a permanent agreement. These agreements are for an area of a minimum of 10 hectares but smaller properties may be considered by the BCT if they contain very high conservation values or meet other strategic objectives of the Trust.</p> <p>See further, <a href="https://www.bct.nsw.gov.au/cards/apply-voluntary-agreement">https://www.bct.nsw.gov.au/cards/apply-voluntary-agreement</a>  See further, <a href="https://www.environment.nsw.gov.au/cpp/conservationpartners.htm">https://www.environment.nsw.gov.au/cpp/conservationpartners.htm</a></p>
<p><b>Biodiversity Offsets Scheme</b></p>	<p>The Biodiversity Offsets Scheme is a framework to avoid, minimise and offset impacts on biodiversity from development and clearing, and to ensure land that is used to offset impacts is secured in-perpetuity. The Biodiversity Offsets Scheme deals with: (a) developers and landholders who undertake development or clearing. These activities generate a credit obligation which must be retired to offset their activity; and (b) landholders who establish a biodiversity stewardship site on their land, generating credits to sell to developers or landholders who require those credits, to securely offset activities at other sites.</p> <p>In order to establish a <b>biodiversity stewardship site</b> landholders must meet a fit and proper person test and offer land which meets the eligibility criteria including uses consistent with biodiversity conservation on sites not otherwise under a legal obligation to carry out biodiversity conservation. The landholder must retain an accredited assessor to apply the Biodiversity Assessment Method (BAM) to their site. The assessor will produce a Biodiversity Stewardship Site Assessment Report (BSSAR) that will set out the type and number of credits generated by placing a Biodiversity Stewardship Agreement (BSA) on the site, and a proposed management plan for the site, which will be included in the biodiversity stewardship agreement.</p> <p>Once the BSA formalised, the agreement and credits will be registered and the landholder may include their credits on the <b>expression of interest register</b>, sell the credits to the BCT or find a purchaser for the credits directly.</p> <p>The management plan in the BSA will set out proposed annual management actions and the cost of those actions -including maintenance costs over a 20 year period – these costs are the Total Fund Deposit. Once the credits are sold, the landholder must transfer the Total Fund Deposit to the BCT’s Stewardship Payments Fund. A landholder is only likely to sell their credits at a price that allows them to recoup the full Total Fund Deposit amount.</p> <p>See further: <a href="https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme">https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/biodiversity-offsets-scheme</a></p>

## Commonwealth

<b>Environmental offsets (EPBCA)</b>	<p>Under the Environment Protection and Biodiversity Conservation Act 1999 (CTH) (EPBCA) actions that will or are likely to have significant impacts on matters of national environmental significance must be assessed in accordance with the Act. Where appropriate, offsets may be included as a condition of approval. Offsets will only be considered to deal with residual significant impacts after mitigation and avoidance measures have been exhausted. A minimum of 90 per cent of the offset requirements for any given impact must normally be met through direct offsets - actions that provide a measurable conservation gain for an impacted protected matter. Proponents or offset providers may also offer advanced environmental offsets - a supply of offsets for potential future use, transfer or sale.</p> <p>See further, EPBCA, Environmental Offsets Policy 2012 available at: <a href="https://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy">https://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy</a></p>
<b>Climate Solutions Fund (formerly the Emissions Reduction Fund)</b>	<p>In February 2019 the Government renamed the ERF the Climate Solutions Fund and allocated an additional \$2 billion to that Fund. In this scheme, proponents of eligible projects bid for funding from the Government – in each auction round the proponents who propose to make the most cost-effective emissions reductions are awarded credit from the Fund. That credit takes the form of a guarantee by the Commonwealth Government that, once the project is completed, it will purchase Australian carbon credit units (ACCUs) generated by the project. Projects are selected by means of a competitive reverse auction – meaning government contracts are awarded to the projects that will accept the lowest price in return for their emissions reductions. The standard length for a contract is seven years but contracts can be for longer or shorter periods than this. No money is paid until the project is actually implemented and the emissions reduction achieved. Eligible projects include Vegetation projects such as plantation forestry, reforestation by environmental or mallee plantings; avoided clearing of native regrowth; avoided deforestation; native forest from managed regrowth; reforestation and afforestation. Agricultural projects are also eligible including – soil carbon and higher quality pasture for cattle – and savannah fire management schemes.</p> <p>See further, <a href="http://www.cleanenergyregulator.gov.au/csf/how-it-works/Pages/how-it-works.aspx">http://www.cleanenergyregulator.gov.au/csf/how-it-works/Pages/how-it-works.aspx</a></p> <p>The <a href="#">LOOC-C</a> web tool, produced by CSIRO, is a landscape options and opportunities for carbon abatement calculator. It can assist land managers to decide which methods will be most suitable for their property. It allows land managers to quickly assess options on the land for certain projects offered under the Emissions Reduction Fund (ERF). Implementing the ERF methods identified by LOOC-C estimates increases in the amount of carbon contained in trees or soil in response to identified management activities.</p>
<b>Tax relief</b>	<p>Under the <i>Income Tax Assessment Act 1997</i> taxpayers may benefit from donations of property valued at more than \$5000 to eligible environmental bodies. The deduction is</p>

	<p>available regardless of when or how the property was acquired and the deductions can be spread over five years so that tax benefits are not lost when a donor's income in a single year is less than the value of the gift. A Capital Gains Tax exemption applies for gifts of property bequeathed in a will to an eligible organisation.</p> <p>The <i>Income Tax Assessment Act 1997</i> also provides two types of tax concession for landholders entering a perpetual conservation covenant: an income tax deduction for any decrease in land value as a result of entering into a conservation covenant (provided the landowner receives no payment for entering into it); and, where a conservation covenant is entered into, Capital Gains Tax provisions will apply as if it were a sale or gift of the land.</p> <p>See further,  <a href="https://www.environment.gov.au/biodiversity/publications/tax-incentives-for-conservation">https://www.environment.gov.au/biodiversity/publications/tax-incentives-for-conservation</a></p>
<p><b>Future Drought Fund /Agriculture Stewardship Package</b></p>	<p>The Future Drought Fund is a permanent and secure revenue source to support drought resilience initiatives. From 2020–21, \$100 million per year will be available in this Fund. The Australian Government has also committed \$34 million to an Agriculture Stewardship Package, which will incentivise the adoption of sustainable practices, farm business improvements and biodiversity outcomes to improve the availability and quality of water and vegetation across the agricultural landscape.</p>