

# Legislative Assembly Environment and Planning Committee

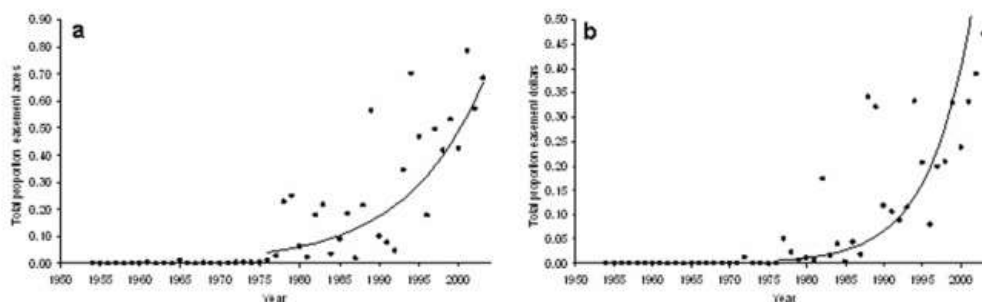
## Inquiry into securing the Victorian food supply

Questions on notice from Trust for Nature

18 June 2024

### What lessons can Victoria learn from the US system of agricultural easements?

- The US is a current global leader in private land conservation, having a well-developed system of conservation and agricultural covenants (easements), made possible by a range of public incentives that recognise the fundamental value of permanently protecting biodiversity. These initiatives have been shown to have a demonstrable impact on the uptake of permanent protection of nature on private land.
- For example, US easements began to see widespread uptake around 1976. This is the year the Tax Reform Act granted conservation easements a reduction from federal income tax (see figure below from Fishburn et al, The Growth of Easements as a Conservation Tool (2009) PLoS ONE 4(3): e4996. doi:10.1371/journal.pone.0004996.)



**Figure 1. Temporal growth of the proportion of overall conservation effort allocated to easements for all states combined.** Proportion allocated to easements is measured as (a) acres protected and (b) dollars invested across the coterminous states. The log of these proportions were regressed against time for the period of peak easement activity, 1976–2003. (A) Acres:  $y = -208 + 0.10t$ ;  $n = 27$ ;  $p < 0.0001$ ;  $r^2 = 0.48$  and (B) Dollars:  $y = -360 + 0.18t$ ;  $n = 27$ ;  $p < 0.0001$ ;  $r^2 = 0.54$ . When graphed on normal axes these fits produced the exponential curves shown. doi:10.1371/journal.pone.0004996.g001

- This initiative was [amplified](#) in 2015 when Congress raised the deduction a donor can take for donating a conservation easement to 50% of their income (or in the case of qualified farmers and ranchers, up to 100%), across a carry-forward period of 15 years.
- As a further example, US landholders can ‘donate’ their easement to a land trust and qualify for a tax-deductible charitable donation. Notably, the value of the donated land is determined by calculating the difference between the current value of the property without the easement and its value subject to the easement. Generally, a property's value is based on its ‘highest and best use’, which often means development. Conservation easements in which development rights are given up can often qualify the property for a substantial value for tax deduction purposes, as the parcel's development potential no longer exists.



- A range of other tax incentives are also available, including bargain sales (split receipting in Canada) for ecological services/gifts, New Market Tax Credits, tradeable or transferrable tax credits and State tax credits. These initiatives have been shown to have a demonstrable impact on the uptake of easements.

## What should the parameters of a pilot program for covenants on agricultural land include?

- Trust for Nature covenants are a land conservation tool available for securing essential parts of productive landscapes. Covenants in productive landscapes can work to protect the natural capital values that support healthy agricultural systems: i.e. soil, water and pasture. Covenants can contribute substantially to protecting agricultural landscapes by preventing subdivision and development on productive land; ensuring long term stewardship of productive landscapes; preventing the reversal of sustainable practices; helping verify good land stewardship to the market; and ultimately, promoting biodiversity and mitigating climate change.
- In contrast to the planning scheme, the covenant presents an alternative land-use tool that is permanent, is not subject to variations in state or local government planning decisions or commercial imperatives, and offers a less rigid approach to protecting a diversity of farm systems and land management approaches.
- Subject to funding and alignment of any pilot program with Trust for Nature's statutory obligations, covenants are already implementation-ready in agricultural contexts, based on our on-ground trial site at Moonlight Creek in 2022-23. Findings on this trial available in the project report available here: <https://trustfornature.org.au/resources/protecting-sustainable-farmland>
- To ensure our covenants align with our statutory objectives, a pilot program aimed at protecting farmland in peri-urban Melbourne could help mitigate impacts of urban sprawl and protect land in green wedge areas, noting that sites would need to meet our minimum covenanting requirements around conservation value (including prospective ecological value, per Moonlight Creek). Intensively farmed / monoculture cropping farmland, without ecological values / prospects is unlikely to qualify for a Trust for Nature covenant.
- The Trust would be open to discussing a more expansive pilot program that further tests the application of the conservation covenant deed in a range of agricultural contexts.

### *Opportunities for implementation*

- Through the Lord Mayor's Charitable Fund 'protecting our sustainably managed farmland' [project](#), Trust for Nature has strong networks in the agricultural, particularly sustainable agricultural communities. Through a pilot program Trust for Nature would likely be able to get some more pilot covenants off the ground in target landscapes relatively quickly.
- It is likely that many landholders would require incentives if the covenant significantly limits future land use options (particularly development).



#### **Trust for Nature**

ABN 60 292 993 543

[trustfornature@tfn.org.au](mailto:trustfornature@tfn.org.au) | (03) 8631 5888

Wurundjeri Country, Level 5

379 Collins Street, Melbourne VIC 3000

[trustfornature.org.au](https://trustfornature.org.au)

*Tax and other incentives to assist a pilot program*

- Trust for Nature covenantors have limited access to tax incentives at the State or Federal level – even though numerous studies over the years have demonstrated they act as a significant incentive for permanent protection.
- At the state level, Trust for Nature acknowledges the contribution of the recent [land tax exemption](#), but notes that only a limited sub-set of landholders have a land tax liability. Most landholders are still required to [pay council rates](#) notwithstanding the significant contribution they are making to the conservation estate, including managing pest plants and animals, improving and maintaining habitat connectivity, and mitigating climate change. The Trust supports an amendment of [s 169](#) of the Local Government Act to provide blanket rates exemptions to covenantors. This would mirror the rates situation in [NSW](#) and [SA](#).
- At the federal level, landholders have access to a limited income tax deduction, however they pay capital expenditure and GST unlike their primary production counterparts. The Trust supports expanding the ‘Landcare operations’ deductions under s.40.630 of the ITAA to include ‘ecological management and restoration’ or ‘management and restoration of ecosystem goods and services’; and amending the GST Act to exempt land protected by a perpetual conservation covenant from GST on future sales and purchases.
- The emerging Nature Repair Market may provide incentives for permanent protection in the future; but this should not be relied on as a substitute for supporting covenantors.



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