

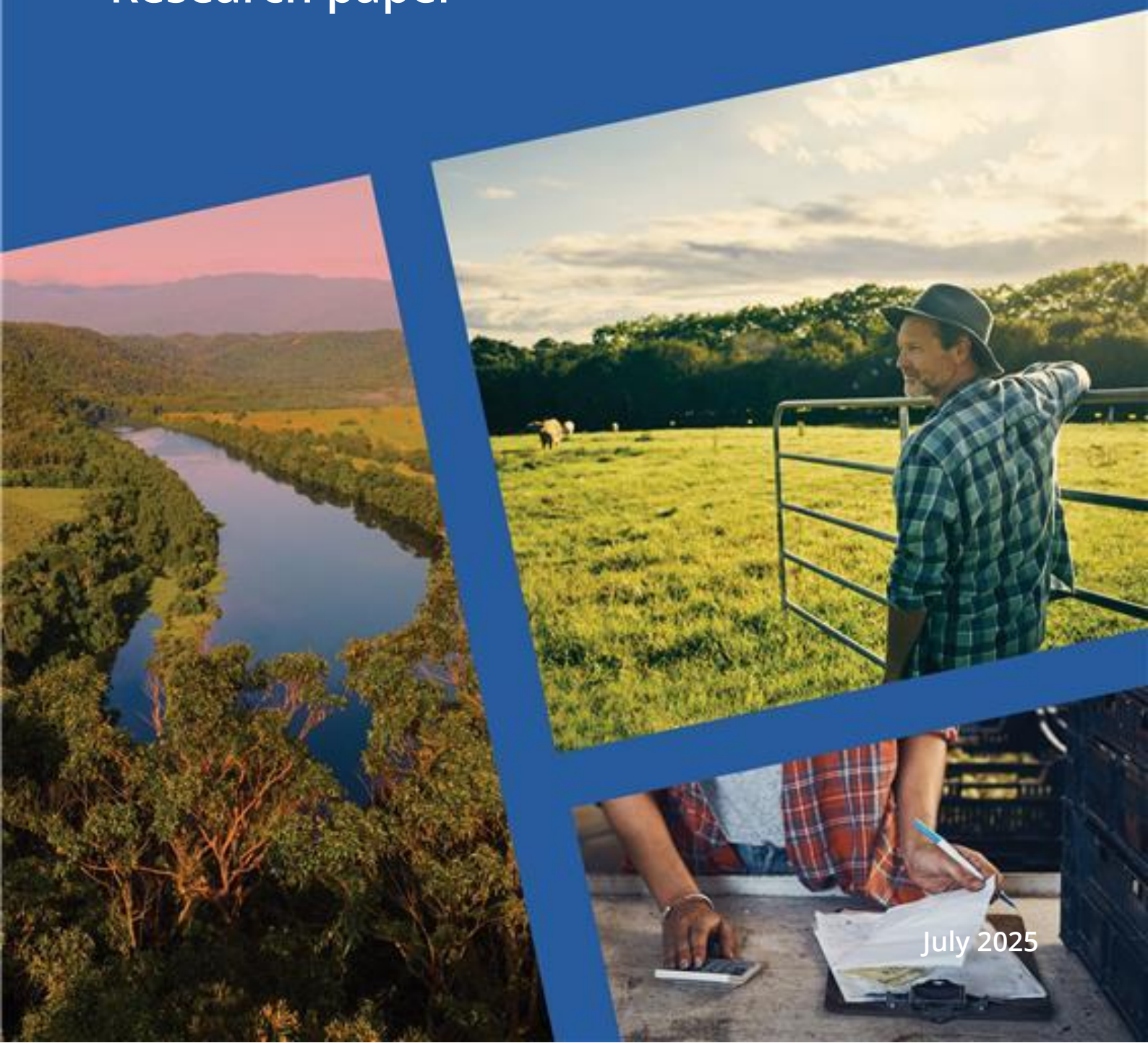


Australian Government  
Productivity Commission

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# Protecting biodiversity on farms: do tax arrangements help?

Research paper



July 2025



The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

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# Protecting biodiversity on farms: do tax arrangements help?

## Key points

- \* In 2022, the Australian Government committed to the Kunming–Montreal Global Biodiversity Framework. This requires that at least 30% of land is covered by ecologically representative and well-connected systems of protected areas and other area-based conservation measures by 2030. To meet this target, Australia must protect or conserve an additional 60 million hectares of land over the next five years. Much of this increase will need to come from privately held land. Conservation covenants are a key mechanism for permanently protecting biodiversity on private land.
- \* Tax concessions for farmers who enter into conservation covenants, of which income tax deductions are the most significant, have been in place for many years. In theory, they provide an incentive by offsetting the loss of market value and reduced production opportunities to a property from a covenant and should support progress towards the target. In practice, tax arrangements for farm activity are complex, and the value of income tax deductions to a farmer contemplating a covenant is uncertain. For many farmers, the tax arrangements likely mean that they would face an increased tax liability in addition to a financial loss from placing a conservation covenant on part of their land.
- \* Since 2014, the Australian Tax Office has approved only 18 income tax deductions for landholders who had entered into conservation covenants. Over the 10 years to 2022, new conservation covenants numbered 2,690 (although the proportion of these taken up by primary producers is unknown).
- \* Income tax deductions appear to have little positive incentive effect on decisions to enter into conservation covenants, are likely to be inefficient and should not be relied on as a policy tool for increasing conservation on private land to meet the 2030 target.
- \* There would be value in governments investing in a better understanding of how incentives to conserve biodiversity on private land could be improved. Policymakers could then refine these programs to increase their uptake, ensuring they can make a meaningful contribution to Australia's biodiversity commitments.

# 1 Introduction

This paper looks at how tax arrangements might affect primary producers' ('farmers')<sup>1</sup> decisions about entering into conservation covenants<sup>2</sup> to permanently protect areas of land on their properties.

The effectiveness of tax arrangements is relevant to all biodiversity-related policy goals, and particularly to meeting Australia's 2022 commitment under the Kunming–Montreal Global Biodiversity Framework to protect and conserve at least 30% of land by 2030,<sup>3</sup> known colloquially as the '30 by 30' target:

- 'Protected land' is land in the National Reserve System (the protected area network). Conservation of biodiversity must be the primary management objective, and this objective is part of the title in perpetuity.
- 'Conserved land' is subject to less stringent protections, but the regime is still seen to be achieving the desired biodiversity conservation outcomes. Biodiversity conservation need not be the primary management objective.

Conservation covenants on private land have been recognised as part of the National Reserve System since it was established in 1992. In contrast, the ability to have conserved land recognised as contributing to the 30 by 30 target is very recent. Australian Environment Ministers agreed to a classification approach – the National Other Effective area-based Conservation Measures (OECM) Framework – in June 2024 (Commonwealth of Australia 2024c; Jonas et al. 2024).

Meeting the 30 by 30 target will require 'ecologically representative, well-connected and equitably governed systems of protected areas and [land conserved through] other effective area-based conservation measures' (Secretariat of the Convention on Biological Diversity 2024).

In 2022, the share of land protected in Australia was about 22% (figure 1).<sup>4</sup> To achieve the 30% target, an additional 60 million hectares of land needs to be protected and conserved (Commonwealth of Australia 2024a, p. 9). For context, the area of Victoria is approximately 23 million hectares (Geoscience Australia 2014). To be 'ecologically representative', the 30% of land protected and conserved must be representative of the 89 bioregions and 419 subregions in Australia.<sup>5</sup>

Increasing the share of private land that is protected or conserved will be central to achieving the 30 by 30 target. It is estimated that 70% to 90% of unprotected or poorly protected biodiversity is on private land (Ivanova and Cook 2020, p. 7). And just under half of Australia's subregions that are not well protected are

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<sup>1</sup> In this paper, primary producers are defined as people carrying on a primary production business as defined in subsection 995-1(1) of the *Income Tax Assessment Act 1997* (Cth). The terms 'primary producer' and 'farmer' are used interchangeably in this paper.

<sup>2</sup> A conservation covenant is a voluntary legal agreement between a private landholder and a government or other authorised body for the conservation of privately tenured land. Covenants are registered on the title of the land and are binding on the landholder, successors in title and persons who have an interest in the land (including mining interests) (England 2015).

<sup>3</sup> Target 3 of the Kunming–Montreal Global Biodiversity Framework commits signatories to: 'Ensure and enable that by 2030 at least 30% of terrestrial and inland water areas, and of marine and coastal areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognising and respecting the rights of indigenous peoples and local communities, including over their traditional territories' (COP15 Secretariat 2022, p. 2).

<sup>4</sup> Data on protected areas is held in the Collaborative Australian Protected Area Database. Data on conserved areas will be recorded in the National Conserved Area database.

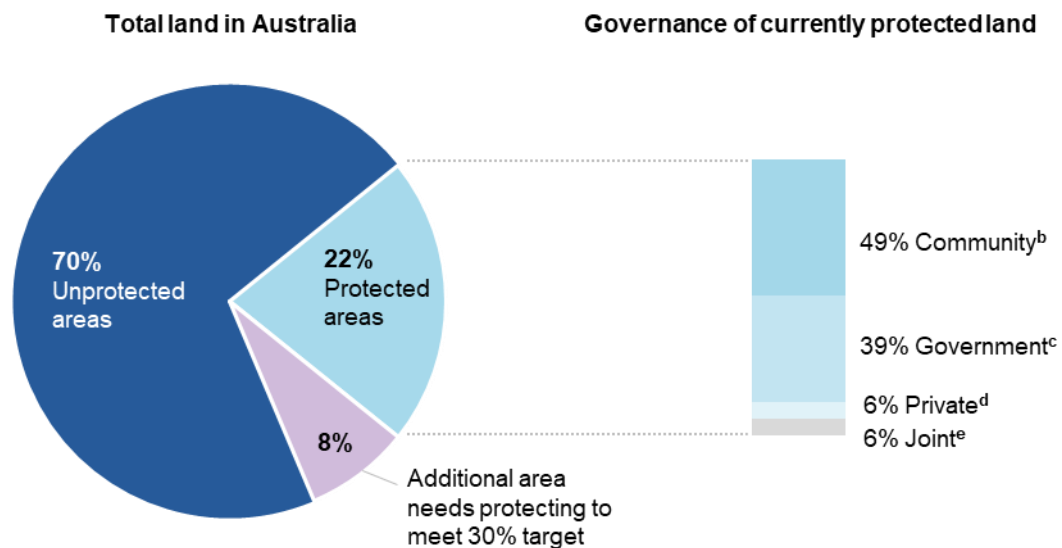
<sup>5</sup> A bioregion is a landscape-scale approach to classifying the environment using a range of attributes such as climate, geomorphology, geology, soils and vegetation (DCCEE 2023a; DEECA 2024a).



predominantly used for private agricultural purposes (CAPAD 2022). While privately held land represents about 31% of the country (ABS 2021; DCCEEW 2024a), it accounts for only 6% of the National Reserve System (figure 1).

It is unlikely, however, that much private land used for primary production will be recognised as conserved under the OECM framework by 2030. To count towards the target, ‘a long-term commitment [minimum 99 years] ... secured through legal or other effective means’ is needed to assure biodiversity is preserved (Commonwealth of Australia 2024c, p. 40). Conditions placed on land being used to generate Australian Carbon Credit Units or for Nature Repair Market projects mean it might meet OECM requirements, but methods for recognising land committed under these schemes as OECMs are still being developed (DCCEEW 2025), and the two schemes are relatively new.

**Figure 1 – Only 6% of the National Reserve System occurs on privately owned land<sup>a</sup>**



**a.** Total land in Australia<sup>a</sup> refers to the Australian mainland and all islands. The Antarctic Specially Managed Areas and the Antarctic Specially Protected Areas have been excluded from the percentage of Australia totals. **b.** Community conserved areas where Aboriginal and Torres Strait Islander people or local communities (settled or mobile) hold decision-making authority, responsibility and accountability. **c.** Government protected areas where decision-making authority, responsibility and accountability is in the hands of national, state or local government. **d.** Private protected areas where land and resource owners hold decision-making authority, responsibility and accountability. **e.** Jointly managed protected areas where several social actors from different governance types share decision-making authority, responsibility and accountability. Joint management arrangements are recognised by a management board, agreement or other formal agreement.

Source: CAPAD (2022); DCCEEW (2023d, 2024c, 2024b).

Expanding conservation covenants on privately held land used for primary production will therefore be important to achieving the targeted level of biodiversity conservation protection by 2030. This paper focuses on the role that tax arrangements might play in progressing that outcome.

The rest of this section sets out the context of our work and the economic case for government involvement in biodiversity conservation. Section 2 then describes our conceptual framework for farmers' decision-making and in section 3 a hypothetical case study is used to illustrate relevant issues. Section 4 presents our findings and section 5 concludes.

## 1.1 Biodiversity is critical to our existence, but is in decline

Biodiversity is critical to all Australians' existence and wellbeing.

Aboriginal and Torres Strait Islander people have been caring for lands, waters and seas for tens of thousands of years as an integral part of culture and identity. Their deep and enduring relationship with Country is central to spirituality, cultural vitality and resilience. Aboriginal and Torres Strait Islander people continue to actively manage land and resources for interlinked social, cultural, spiritual and economic purposes, including to protect biodiversity.

Whilst Aboriginal and Torres Strait Islander knowledge and relationships with Country have sustained people and place for millennia, only relatively recently have the Australian and state and territory governments articulated the proven benefits of spending time in nature for all Australians' health and wellbeing (Commonwealth of Australia 2024b, p. 23). And nature provides ecosystem services – such as food, air and water filtration, soil health, carbon sequestration, pollination, storm and flood mitigation and materials used in the production of goods, which are critical to maintaining economic, social, financial and ecological stability (Commonwealth of Australia 2024b, p. 5; IPBES 2019, pp. 313–358).

It is the combination of life forms and their interactions with each other and the rest of the environment that has made Earth a uniquely habitable place for humans. Biodiversity provides a large number of goods and services that sustain our lives. (Secretariat of the Convention on Biological Diversity 2000, p. 2)

Biodiversity not only maintains the life-supporting processes of ecosystems but also underpins much of Australia's commercial production. It is estimated that approximately half of Australia's GDP depends directly on nature (\$896 billion of \$1.7 trillion) and sectors with a high or very high direct dependency on nature are responsible for more than 75% of Australia's export earnings (ACF 2022, p. 6).

The importance of biodiversity to human existence was recognised in 1992, when 150 nations signed the United Nations Convention of Biological Diversity 'affirming that the conservation of biological diversity is a common concern of humankind' (Secretariat of the Convention on Biological Diversity 2024). The Convention had three objectives: conservation of biological diversity; sustainable use of its components; and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access and funding.

However, despite the Convention and numerous strategies to meet its objectives, the earth's biodiversity continues to decline rapidly. The latest Living Planet Index measured a 73% decline in the average size of monitored wildlife populations between 1970 and 2020 (WWF 2024), and in 2023, it was estimated that humanity had crossed six of the nine planetary boundaries 'within which humanity can continue to develop and thrive' (climate change, biosphere integrity, land system change, freshwater use, biogeochemical flows and novel entities) (Stockholm Resilience Centre 2023).

In Australia, the latest *State of the Environment* report (DCCEEW 2021a) found that most indicators of the state and trend of plants and animals showed decline, with increased listings of threatened species and further extinctions expected unless there was a substantial increase in management effort and investment in protection (DCCEEW 2021a). The indicator for biodiversity under the Measuring What Matters framework<sup>6</sup> also showed a decline of approximately 60% in the abundance of threatened and near-threatened species between 1985 and 2020 (ABS 2023) (figure 2). Moreover, Australia's national list of threatened fauna (599),

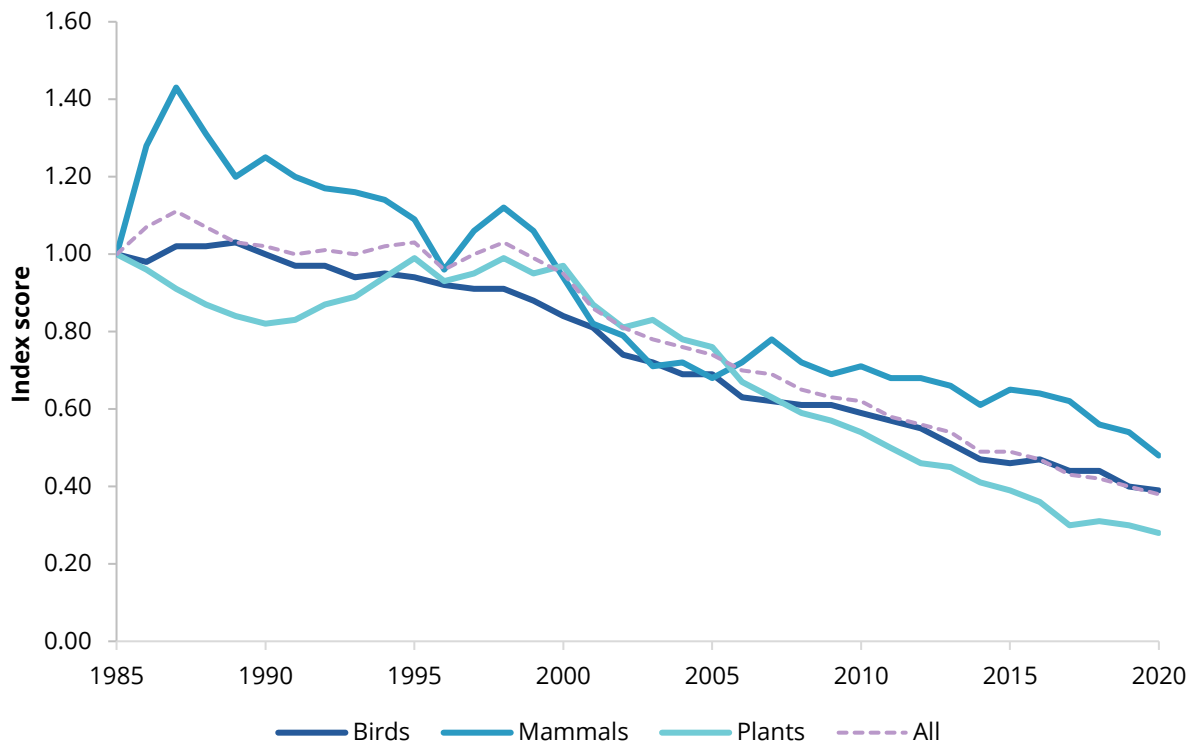
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<sup>6</sup> The framework was established in 2023 by the Australian Government to track progress towards a more healthy, secure, sustainable, cohesive and prosperous Australia (ABS 2024).



flora (1437) and ecological communities (107) had a total of 144 new additions in 2023 (ACF 2024), and the count for 2024 stood at 41 new additions, with 14 existing listings transferred to a higher threat category (DCCEEW 2024d).<sup>7</sup>

**Figure 2 – Index of relative abundance of Australia’s threatened and near-threatened species<sup>a</sup>**



a. The index does not include all threatened species and is continually being expanded to increase the species included. Source: ABS (2023).

Australia’s native vegetation, which both contributes to and supports biodiversity, is also in decline. Between 2012 and 2020, the amount of remnant vegetation in Australia fell by around 1.36 million hectares (DCCEEW 2021c). In the *Deforestation fronts* report, eastern Australia is one of 24 regions identified globally as having ‘a significant concentration of deforestation hotspots and where large areas of remaining forests are under threat’ (Pacheco et al. 2021, p. 6). The *State of the world’s plants and fungi 2023* report also identified that Australia, while ranking highest in the world for endemic plants (the percentage of country endemics relative to other plants was 88%), ranked low in the completion of threat assessments for endemic plant species (34%) (Antonelli et al. 2023, p. 76).

When the national strategy to conserve biodiversity was reviewed in 2016, a key finding was that the strategy had not effectively influenced biodiversity conservation activities, including because there had been no ongoing oversight from jurisdictions to facilitate and coordinate the implementation or allocation of responsibility for actions (Commonwealth of Australia 2016, p. 2).

<sup>7</sup> In 2024, four existing listings were also downgraded to a lower threat category, and one extinct listing was revised to be listed as critically endangered (DCCEEW 2024d).

These indicators show that Australia, like many other countries, has struggled to protect biodiversity. The Kunming–Montreal Global Biodiversity Framework is the latest international effort to do better.

## 1.2 30 by 30 is reflected in policy statements

The Australian Government's overarching policy to meet the commitments of the Kunming–Montreal Global Biodiversity Framework under the United Nations Convention on Biological Diversity is the Nature Positive Plan (NPP), released in December 2022 (DCCEEW 2022). Key elements of the NPP include commitments to:

- reform Australia's environmental laws to improve the national system of environmental approvals<sup>8</sup>
- develop national environmental standards
- establish an independent Environment Protection Agency and Environment Information Australia
- establish a Nature Repair Market for measuring, monitoring, reporting, verifying and publicly tracking biodiversity projects, to commence on 1 January 2025 and to be regulated by the Clean Energy Regulator.

More recently, *Australia's strategy for nature* (the Strategy) was updated to reflect the 30 by 30 target. The updated Strategy was endorsed at the June 2024 meeting of environment ministers (Commonwealth of Australia 2024b). Ministers also agreed to a national 30 by 30 roadmap (Commonwealth of Australia 2024a) – increasing private protected areas is one element. Identified strategies for achieving that end include:

- the Nature Repair Market
- revolving funds
- conservation covenanting programs
- tax concessions.

The Australian Government recently announced funding of \$250 million over five years for the Saving Australia's Bushland Program (Plibersek 2025) to meet the 30 by 30 land target. However, at the time of writing, the details of the program had not been published, so it remains unclear how it will be targeting private landholders and conservation covenants.

Many states and territories are also reviewing and planning to amend state-based biodiversity legislation (or have recently done so), including to consider national and international targets.<sup>9</sup>

## 1.3 Tax settings can play a role in biodiversity conservation

Many of the services nature provides, such as air filtration, carbon sequestration and pollination have the characteristics of a public good. That is, it is difficult to exclude individuals from consuming them. Once provided, they are provided to all individuals within a geographic region simultaneously. In addition, one person's consumption does not affect another's. In economic terminology, biodiversity and the ecosystem services they support, are non-excludable and non-rivalrous.

The non-excludable nature of biodiversity services means that, if left solely to private individuals, these services will not be protected to a level that is optimum from a community-wide perspective. Individuals have an incentive to conserve biodiversity up to the point where the costs they incur are equal to the benefits they

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<sup>8</sup> Successive reviews of the EPBC Act have recommended change on this front (Hawke 2009; Samuel 2020).

<sup>9</sup> For example, New South Wales had its *Biodiversity Conservation Act 2016* independently reviewed in 2023 and in the government response has committed to amendments to the Act and developing a Nature Positive Strategy for New South Wales to consider 'how the BC Act can contribute to the achievement of national and international biodiversity targets' (NSW Government 2024, pp. 9–10). The South Australian Government passed new legislation to protect and conserve biodiversity on 17 June 2025 (DEW 2025a). The ACT Government is currently conducting a 10 year review of the *Nature Conservation Act 2014* (ACT Government 2025).

derive. Benefits that others might receive from their efforts are not considered (in economic terminology, these benefits are positive externalities). As a result, a gap emerges between the socially optimal level of biodiversity conservation and the amount private individuals undertake. Non-excludability also means that many people will not voluntarily pay for the protection of nature, and the value of the ecosystem services provided is not reflected in markets. The non-rivalrous nature of biodiversity describes the benefits it provides that can be used by one person without reducing their availability to others. Many ecosystem services have thresholds. Used below this they have non-rivalrous qualities, but when exceeded the services become rivalrous. These are also sometimes referred to as common pool resources.

Governments have a role to play in bridging these gaps and have a range of policy tools to address biodiversity decline – one of which is taxation arrangements (box 1).<sup>10</sup>

### Box 1 – Policy tools for biodiversity conservation

Mechanisms governments can use to address biodiversity decline include:

- **environmental regulation** which sets the minimum level of protection that landholders must meet (for example, state and territory governments regulate the management of native vegetation while the Australian Government regulates matters of national environmental significance)
- **direct investment** through purchase and management of land such as through the creation of national parks and targeted investments to add to the National Reserve System
- **indirect investment** through grants or other programs to regional natural resource management groups, community groups, Aboriginal and Torres Strait Islander communities and private landholders to support the protection of biodiversity (for example, the Australian Government is providing \$1.1 billion towards on-ground projects under the current phase of the Natural Heritage Trust (2023–28) (DCCEEW 2024f))
- **market-based instruments**, which use price signals and markets to provide incentives to achieve policy objectives, such as reducing pollution or increasing the protection of biodiversity. The proposed Nature Repair Market, where nature repair projects generate tradeable certificates that can be sold to generate income (DCCEEW 2024e), is an example of a market-based instrument
- **information and engagement** to fill information gaps that are having a detrimental effect on individuals' decision-making or to increase communities' awareness of the value of a good or service so they (communities and governments) take actions consistent with that value
- **taxation arrangements** which can encourage the uptake of private land conservation through concessional tax treatment of these activities.

The primary role of the tax system is to raise the required revenue for governments to perform their functions, including the delivery of community services in areas such as health, education and defence (ATO 2024b).

But tax rules have the potential to alter incentives and, consequently, behaviour. This characteristic can be used to realign the interests of individuals and the community – imposing taxes can increase private costs, discouraging an activity; offering tax concessions or exemptions can reduce private costs, encouraging an activity. In the case of biodiversity conservation, the tax system can be – and is – used to offer incentives

<sup>10</sup> A number of studies have found that a mix of policy mechanisms, financial and non-financial, will be required to engage and support landholders in protecting biodiversity on their property due to the variability in their financial circumstances and values (Selinske et al. 2022). The optimal mix of policy tools could be examined in a separate, broader piece of work.

that aim to increase the uptake of conservation covenants on private land. These measures are discussed in further detail in section 2.

## 1.4 Why we look at primary producers?

We have chosen to focus on primary producers rather than other types of private landholders (for example, environmental organisations or private individuals managing land solely for conservation purposes) because:

- much of the land that needs to be protected and conserved to achieve a comprehensive, adequate and representative National Reserve System in line with the 30 by 30 target occurs on land used for primary production (DCCEE 2023c; Randall et al. 2020)
- agricultural activity has been cited as the third most common threat to species listed under the EPBC Act (Kearney et al. 2018). Clearing of native vegetation has also been implicated in the listing of 60% of Australia's threatened species under the EPBC Act, with expansion of land dedicated to agriculture identified as the main driver of clearing (DCCEE 2021b).

The actions of primary producers and their decisions about whether to devote land to biodiversity conservation therefore has a potentially large impact on Australia's biodiversity.

## 1.5 Some factors that we do not consider

This paper focuses on the economic benefits that tax concessions may provide to farmers who are considering entering into a conservation covenant agreement to protect land with high biodiversity values in perpetuity. It is not an extensive review of all the tax arrangements for biodiversity conservation at all levels of government. Nor does it look at other factors which may influence a farmer's decision, such as efforts needed to maintain a covenant after it has been entered into, which may include factors such as ongoing management costs or monitoring and compliance obligations. These issues could be examined as an extension to the work in this paper.

# 2 Influences on farmers' decisions to protect biodiversity

Farmers' land use decisions are motivated by a combination of economic, environmental, personal and community values.

There has been extensive research into the motivations of farmers in undertaking conservation practices for improved environmental outcomes (for example, Brown et al. 2022; Kancans et al. 2014; Moon and Cocklin 2011a; Pannell et al. 2006). A broad range of influences (table 1) on farmers' land use decisions has been identified, but some are more important than others.

In a study on farmer motivations for adopting conservation practices, Kancans et al. (2014, p. 12) found that financial benefits were the key influence on farm managers' decisions about cropping, grazing and weed management practices, while environmental benefits were the key influence for adopting vegetation management practices.

Research into why landholders conserve biodiversity on their properties specifically (as compared to agricultural practices that contribute to environmental outcomes), highlights personal values of environmental stewardship as a driving factor (Groce and Cook 2022; Horton et al. 2017; Moon and Cocklin 2011b).

More recently, the review of the Australian Government's Agriculture Biodiversity Stewardship Pilot program found landholders were motivated to participate in the pilot for many reasons, including pro-environmental

attitudes, anticipated whole-of-farm benefits, financial incentives, and trust in the market itself and the entities involved (Marsden Jacob Associates et al. 2023, p. 30).

Overall, the literature indicates that a farmer deciding whether to protect biodiversity on their land will be primarily motivated by environmental values (Groce and Cook 2022; Horton et al. 2017; Moon and Cocklin 2011b). However, for many of these primary producers, the amount of land to conserve and how to conserve it will likely be influenced by economic considerations (Adams et al. 2014; Moon and Cocklin 2011a; Pannell et al. 2006).

The literature illustrates that understanding the reasons farmers consider undertaking conservation activity is key to designing effective policies to increase uptake. Tax arrangements have a role to play in biodiversity conservation through their effect on farmers' financial incentives – their effectiveness will depend on how they are structured.

**Table 1 – Factors influencing rural landholders' adoption of conservation practices and conservation covenanting programs**

Conservation practices <sup>a</sup>	Conservation covenants <sup>b</sup>
<ul style="list-style-type: none"> <li>• Trialability – gathering information at a smaller scale.</li> <li>• Complexity – impact on farming system and of the conservation practice itself.</li> <li>• Goals and values of the landholder and the reason for holding land.</li> <li>• Enterprise costs – short-term, medium-term.</li> <li>• Upfront costs – large upfront costs reduce attractiveness.</li> <li>• Transaction costs – of seeking out information and ongoing costs associated with the practice.</li> <li>• Long time scales – degradation and nature repair.</li> <li>• Riskiness – associated with unanticipated developments over the long-time scales.</li> </ul>	<ul style="list-style-type: none"> <li>• Perception of financial obligation arising from entering a conservation covenant.</li> <li>• Perception of loss in market value of their land from placing a conservation covenant on it.</li> <li>• Views on property rights and restrictions on land use.</li> <li>• Perception of compensation for undertaking actions in the public good.</li> <li>• Perception that equity in the compensation or incentives provided will not be achieved in a timely way.</li> </ul>

**a.** These are a selection of the multiple factors discussed in Pannell et al. (2006). **b.** The factors listed are those where landholders may need greater effort to convince them to enter a conservation covenant compared to factors present where they are positively motivated to enter into a conservation covenant – covered in the Kabii and Howitz (2006) paper.

Source: Kabii and Howitz (2006, p. 17); Pannell et al (2006).

### 3 Tax arrangements relevant to farmers

This section summarises the tax arrangements that might influence a farmer's land use decisions.

For the purposes of our analysis in section 4, we assume that, because income from farming is the main source of primary producers' livelihoods, the farmer in our hypothetical example would continue to earn most of their income from primary production. As such, they would continue to have access to the tax arrangements associated with primary production and would make decisions about whether to devote land (and how much) to biodiversity conservation based on a comparison of the costs and benefits of doing so.

We have also ignored the possibility of the farmer selling, leasing or gifting land for conservation purposes, rather than entering into a conservation covenant. These activities have different tax implications and including them would complicate the analysis. We have also excluded other sources of income that could be

generated from conserving biodiversity such as agri- or eco-tourism or biodiversity credits. The implications these types of activities for farmers' decision-making could be examined as an extension to this paper, particularly the economic opportunities provided through the Nature Repair Market as it matures.

### **3.1 Tax provisions for primary production**

#### **Concessions on rates levied by local governments**

Many local governments across Australia apply differential rates for land uses, where land used for farming is levied at a lower rate relative to the rate applied for residential and business properties. The reasoning behind differential rates is that there are circumstances where 'common types and classes of land use consistently demonstrate significant relative rate disparities, including access to services arising from the use of a uniform rate' (LGV 2013, p. 8). As farmland in general does not access the same local government services provided in residential areas, for example footpaths and stormwater drainage, it is accepted that it would be unfair and inequitable to charge these types of land the same rate (DLGWV 2020).

#### **Land tax exemptions from state and territory governments**

Land used for primary production is generally exempt from land tax.<sup>11</sup> The origins of this exemption appear to be the desire to provide tax relief to farmers in the post-war period, when this group faced low prices for their products but high prices for inputs such as machinery and minerals (Kaur-Bains 2017).

#### **Income tax provisions of the Australian Government**

Income tax provisions that apply to primary production include both general provisions that apply to all businesses and sector-specific provisions that apply only to primary producers. Whether and how both types of provisions apply can depend on primary producers' income, the business' legal structure, its turnover and other factors.

General business tax provisions include deductions for business expenses, including capital expenses and the cost of depreciating assets (ATO 2024c), and small business concessions such as capital gains tax (CGT) concessions and the small business income tax offset (ATO 2023a).

Provisions available only to primary producers include tax averaging, deductions for deposits into Farm Management Deposit accounts, and special tax treatment of abnormal income (table 2). Some of these recognise the inherent variability in farming income over time and aim to provide ways for farmers to manage this uncertainty. That said, tax arrangements relating to primary producers have generally developed in an ad-hoc way over time, rather than been guided by any overarching policy framework (McKerchar and Coleman 2003).

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<sup>11</sup> The Northern Territory Government does not levy land tax on any land use. In some states or territories, additional eligibility requirements apply, such as the requirement in New South Wales that primary production land that is not rural land must satisfy additional tests to determine if the primary production undertaking has a significant commercial purpose and is carried out for the purpose of profit on an ongoing basis.



**Table 2 – An overview of selected Australian Government tax provisions for primary producers**

Provision	How it works	Additional eligibility requirements <sup>a</sup>
<b>Tax averaging for primary producers</b>	Primary producers can receive a tax offset/credit if their income in a particular year is higher/lower than their average income over the past five years.	None.
<b>Deductions for deposits into Farm Management Deposit (FMD) accounts</b>	Primary producers can claim an income tax deduction for deposits made into an FMD account. When funds are withdrawn, they count as assessable income in that income year.	The primary producer must be an individual (not a corporation), have no more than \$100,000 in non-primary production income in the year a deposit is made and have no more than \$800,000 in total in FMDs.
<b>Exception from non-commercial loss rules</b>	Primary producers can offset losses from primary production activities against other income in the same income year, rather than be required to carry over losses and claim them against income from the same activity in a future year.	The primary producer must be a sole trader or partner in a partnership and must not have other income of more than \$40,000 in that income year.
<b>Taxation of abnormal income (various provisions)</b>	Special provisions apply to the taxation of abnormal income, including disaster relief payments, insurance payments and profits from forced disposal of livestock or double wool clips. For example, primary producers may be able to defer profits to a future year or spread the profits over multiple years.	Various requirements for different provisions.
<b>Provisions for valuing livestock (various provisions)</b>	Special provisions apply for valuing livestock, including stock from natural increase and stock taken for private use. Simplified provisions are available for small businesses.	Various requirements for different provisions, including small business thresholds.
<b>Deductions for depreciating primary production assets (various provisions)</b>	Special provisions apply to claiming deductions for capital expenditure or depreciation of certain primary production assets, such as water facilities, fencing and fodder storage assets, and horticultural plants.	None.

a. All provisions require the taxpayer to be carrying on a primary production business, in addition to the requirements listed for each provision.

Source: ATO (2019, 2021a, 2021b, 2022, 2023b, 2024a).

## 3.2 Tax concessions for conservation covenants on farmland

### Rate rebates and land tax exemptions

Rate rebates for land under conservation covenant, while possible through local government legislation (table 3), are dependent on whether local governments agree to offer them. Regional local governments are often constrained in how much they can cross-subsidise biodiversity protection through rate rebates due to their typically small population base, as well as community views on priorities for how revenue raised by rates should be allocated. For example, in Victoria, 19 of 46 regional local governments offered a rate rebate

with the amount ranging from \$5/hectare to \$25/hectare and caps of \$500 to \$1,000, with some offering 50% to 100% rebates on the area under covenant (LCV 2025).

**Table 3 – Local government rate concessions for land protected under conservation covenants**

State or territory	Rate concessions are available for land protected under conservation covenants
<b>NSW</b>	Under subsection 555(1) of the <i>Local Government Act 1993</i> , land subject to a conservation agreement is exempt from all rates.
<b>Victoria</b>	Under subsection 169(1)(b) of the <i>Local Government Act 1989</i> , a local government may grant a rebate or concession in relation to any rate or charge to places of environmental interest. Whether a rebate or concession is available in each local government area varies.
<b>Queensland</b>	Under subsection 120(1) of the <i>Local Government Regulation 2012</i> , a local government may grant a rate concession to encourage land that is of environmental value to be preserved, restored or maintained. Whether a rate concession is available in each local government area varies.
<b>Western Australia</b>	Under subsection 6.47 of the <i>Local Government Act 1995</i> , a local government may grant concessions for rate or service charge. The PC was only able to identify one local government that offers a rate concession for land dedicated to conservation. <sup>a</sup> There might be others.
<b>South Australia</b>	Subsection 98(2)(g)(i) of the <i>Biodiversity Act 2025</i> (passed on 17 June 2025) allows a biodiversity agreement <sup>b</sup> to provide for remission of rates or taxes in respect of land when that agreement operates in perpetuity.
<b>Tasmania</b>	Subsection 86B of the <i>Local Government Act 1993</i> requires local governments to adopt a rates and charges policy, and to consider certain principles when making or varying rates under the policy. Subsection 129 also allows local governments to grant a remission of any rates. Whether a rate concession or remission is available for conservation covenants in each local government area depends on the local government's policy and/or whether it has chosen to offer a rate remission for this purpose.
<b>Northern Territory</b>	None.
<b>ACT</b>	None.

**a.** The Shire of Serpentine Jarrahdale offers rate concessions of 50% for private landowners with land zoned Conversation. To be eligible for Conservation zoning, adequate protection must be provided to natural communities on covenanted private lands (SJ Shire 2016, 2023). **b.** A biodiversity agreement is a permanent and legally binding contract between a landholder and the Minister for Climate, Environment and Water, placed on the land's title to protect an area of native vegetation. As such, it is analogous to conservation covenants in other jurisdictions (DEW 2025b, 2025c, p. 23; NVC 2023).

Source: *Local Government Act 1993* (NSW); *Local Government Act 1989* (Vic); *Local Government Regulation 2012* (Qld); *Local Government Act 1995* (WA); *Biodiversity Act 2025* (SA) and *Native Vegetation Act 1991* (SA); *Local Government Act 1993* (Tas); Moraes et al. (2021).

These rebates are typically worth only a small amount relative to the cost of entering into, meeting obligations and the opportunity costs of a conservation covenant. Under the recently passed *Biodiversity Act 2025* in South Australia, local governments are to prepare and adopt guidelines in relation to financial

assistance to be provided<sup>12</sup> for biodiversity agreements, including for the remission of rates or taxes in respect of the land<sup>13</sup> when that agreement is in perpetuity.

While land tax exemptions are available in some jurisdictions for certain types of conservation agreements,<sup>14</sup> primary producers are already exempt so any exemption for conservation covenants will not provide them with any additional economic benefits.

### Tax concessions under the Conservation Covenant Program

An **income tax deduction measure** under section 31.5 of the *Income Tax Assessment Act 1997* (Cth) (ITAA) allows landholders (both primary producers and others) entering an approved conservation covenant<sup>15</sup> to claim an income tax deduction equivalent to the loss in value of the land as a result of entering the covenant, as long as the land value has decreased by more than \$5,000 and the landholder has not received any money, property or other material benefit for entering into the covenant. The deduction may be spread over a maximum of five years, with any remaining deduction after that time forfeited.

To inform the tax deduction, the landholder must seek a valuation from the Australian Tax Office (ATO) of the change in land value from entering into a conservation covenant. Determination of the decline in land value must be undertaken by an independent land valuer authorised by the ATO and paid for by the landholder. The ATO then provides the landholder with a certificate of valuation.

**Concessional CGT treatment** allows landholders who receive capital proceeds from entering into an approved conservation covenant, or who are eligible for the income deduction measure (which is treated as a CGT event), to take into account any loss in the value of their land by deducting a cost base for the covenant when calculating capital gains (Explanatory Memorandum, Taxation Law Amendment Bill (no. 2) 2001).<sup>16</sup>

Since the introduction of concessional CGT treatment for conservation covenants (on 1 July 2002), it is not clear how many primary producers have accessed the provisions, but the number could only be very small.

The ATO has advised the PC that there has been relatively low uptake of the Conservation Covenant Program in the last 10 years and that the ATO has only issued 18 Certificates of Valuation under the program since 2014 (ATO pers.comm., 19 June 2025). In contrast, over the ten-year period to 2022, 2,690 conservation covenants were entered into – although the proportion of these that was taken up by primary producers is unknown.

Given that farmers are already exempt from land tax and rate rebates are relatively small and not uniformly offered, the rest of this paper explores the potential the economic benefit of the income tax arrangements through consideration of a hypothetical farm.

<sup>12</sup> Subsection 174(2)(g).

<sup>13</sup> Subsection 98(2)(g)(i).

<sup>14</sup> Exemptions from land tax for conservation covenants are facilitated under the: *Biodiversity Conservation Act 2016* (NSW); *Nature Conservation Trust Act 2001* (NSW); *Biodiversity Conservation Act 2016* (WA); *Nature Conservation Act 2002* (Tas); *Heritage Agreements under Native Vegetation Act 1991* (SA) and through Trust for Nature in Victoria. Queensland, the Northern Territory and the ACT do not offer exemptions for conservation covenants.

<sup>15</sup> Approved conservation covenants are those approved by the Australian Minister for Environment for the purposes of the ITAA.

<sup>16</sup> Under the ITAA, the creation of a contractual right is a CGT event. Granting a conservation covenant creates a contractual right for the covenanting body.

## 4 A hypothetical example – a mixed sheep and cropping farm in north central Victoria

We use a hypothetical mixed sheep and cropping farm in north-central Victoria to illustrate the potential effects of income tax deductions. The Western Riverina region was selected due to it being a Trust for Nature focal landscape with a high level of native vegetation on private land and an area known for grazing farming enterprises which can be compatible with conservation covenant agreements. It is also within Victoria's third least protected Interim Biogeographic Regionalisation for Australia (IBRA)<sup>17</sup> sub-region (Victoria Riverina) with only 3.3% protected (CAPAD 2022). We consider the tax implications of a decision to place a covenant on part of the farm in 2022-23.

### 4.1 Property characteristics

#### Farming enterprise

Our hypothetical farm is a mixed sheep (prime lamb) and cropping enterprise located in the north-east region of the Loddon Shire of Victoria.<sup>18</sup> It is 1,300 hectares in size, with 550 hectares devoted to cropping, 400 hectares for grazing on modified pastures (10 Dry Sheep Equivalent (DSE)/hectare)<sup>19</sup> and 50 hectares used for growing hay and where the residence and farm sheds and equipment are located. The property also has an area of approximately 300 hectares of remnant grassy woodland vegetation, including unmodified pastures with native grasslands which is grazed by sheep some of the year (five DSE/hectare).

We assume the farm was purchased in 2002 for \$2.4 million.<sup>20</sup> Its value in 2022-23 was estimated at \$10,433,800 (Rural Bank 2023, p. 34) and the cost base of the asset was estimated at \$3 million. The farm is managed as a partnership (two partners with an equal share), and the earnings and costs are split equally between the partners for tax purposes. The land is also jointly held in both partners' names, with each having an equal interest. Both partners work on the farm and the primary production earnings from the farming business are their main source of income.

#### Environmental values

The Western Riverina has a total area of just over 155,000 hectares, of which nearly 86,000 hectares is native vegetation. Of this, 88% of all native vegetation in the Western Riverina is on private land and 99% of

<sup>17</sup> IBRA provides the national and regional planning framework for the systematic development of a comprehensive, adequate and representative National Reserve System and is endorsed by all levels of government for identifying land for conservation protection (DCCEEW 2023b).

<sup>18</sup> The farm was based on data available through the Australian Bureau of Agricultural and Resource Economics (ABARES) farm data portal (Victorian central-north) (DAFF 2024); ABARES about my region dashboard (Bendigo) (ABARES 2025); the Agriculture Victoria livestock farm monitor project (Agriculture Victoria 2023) and Trust for Nature's Statewide Conservation Plan (Trust for Nature 2022). ABARES my region data describes the main farming businesses in the Bendigo region as cropping and modified pastures. ABARES farm data portal describes the average farm in the Victorian central-north region in 2022 as operating an average area of 570 hectares, having a farm cash income around \$203,400 and total closing capital of \$7.9 million.

<sup>19</sup> The Dry Sheep Equivalent (DSE) is a standard unit frequently used to compare the feed requirements of different classes of stock or to assess the carrying capacity and potential productivity of a given farm or area of grazing land (McLaren 1997, p. 1). The carrying capacity of this hypothetical farm was drawn from information provided in the Livestock Farm Monitor Project for prime lambs in northern Victoria (Agriculture Victoria 2023, pp. 45–46).

<sup>20</sup> Estimate taken from the ABARES Farmland Price Indicator (DAFF 2025b) using the regional estimate for Victoria central-north in 2002 at \$1,859 per hectare.

under-represented native vegetation types/ecosystem types is on private land (Trust for Nature 2022, p. 89). Trust for Nature has identified that 60% of Riverine Grassy Woodlands, one of the most under-represented ecosystems, occurs on private land (Trust for Nature 2022, p. 28). Trust for Nature flagship fauna and flora species of the Western Riverina include the plains-wanderer, pale sun moth, striped legless lizard, fat-tailed dunnart, spiny rice flower and chariot wheels (Trust for Nature 2022, p. 89). The 300 hectares of remnant grassy woodland on our hypothetical farm is unlikely to contain plains-wanderers but it may host native and chenopod grasslands and some other flagship fauna (Trust for Nature, pers. comm., 11 December 2024).

## 4.2 Income tax payable in 2022-23 without a covenant

In the absence of a covenant, total farm earnings were estimated at \$405,368 and capital depreciation and deductions at \$274,000 in 2022-23. Table 4 shows farm earnings and capital depreciation and deductions for the period 2018-19 to 2022-23.

For the purposes of analysing the tax implications of this farm entering into a conservation covenant, we focus on the circumstances of one member of the partnership.

As farm earnings and costs are split equally between the two partners, the assessable income, deductions and taxable income of our farmer over the last five years will be half of what is shown in table 4. In addition, it is assumed that our farmer earns wages income from off-farm, part-time employment and that this is their only source of non-primary production income.

Our farmer has opted into tax averaging. This means their income tax in 2022-23 is a function of taxable income across the years 2018-19 to 2022-23. Under tax averaging, income tax payable in 2022-23 by the farmer is \$25,415.

**Table 4 – Key financial data for the hypothetical farm without a covenant**  
\$ per annum, 2018-19 to 2022-23

	2018-19	2019-20	2020-21	2021-22	2022-23
<b>Farm earnings</b>	327,312	323,025	410,495	436,623	405,368
<b>Capital depreciation and deductions</b>	204,000	199,000	279,000	304,000	274,000
<b>Taxable income</b>	123,312	124,025	171,495	132,623	131,368

Source: PC estimates based on data from DAFF (2024) and Agriculture Victoria (2023).

## 4.3 Tax implication of entering into a conservation covenant

In 2022-23, the farmers place a conservation covenant over the 300 hectares of native grassland used for grazing because they highly value the landscape and want to preserve it for future generations. The covenant is entered into with Trust for Nature under the Trust for Nature Conservation Covenant Program, and it requires reduced stocking to two DSE/hectare on the covenanted land to protect its ecological values. As the property is in a highly valued ecological zone that is under-represented in the National Reserve System and a focal landscape of the Trust for Nature Statewide Conservation Plan, the farmers can have the

legal costs<sup>21</sup> of placing the covenant on the title covered under the Iconic Estates program.<sup>22</sup> The farmers do not receive any money, property or material benefit for entering into the covenant.

The farmers will face costs of maintaining and protecting the identified environmental values of the covenanted land. Unlike in New South Wales where conservation covenant agreements between landholders and the Biodiversity Conservation Trust provide funding for managing obligations, conservation covenant agreements in Victoria (with Trust for Nature or the Department of Energy, Environment and Climate Action) do not include regular payments over a specified period to cover these costs.

Farmers cannot deduct the costs of protecting the environmental values of covenanted land from farm income earned because they are not recognised under division 40 of the ITAA (in contrast, capital expenses incurred in Landcare operations can be deducted). Grants are offered by governments targeting these actions (for example, the Victorian North Central Catchment Management Authority website includes links to a range of grants available to landholders to support conservation activities), however, they need to be regularly applied for and are not guaranteed, increasing the administrative burden and uncertainty for farmers.

While the costs of managing covenanted land associated with grazing are not documented, it is assumed that the costs incurred by our hypothetical farm to manage pests and weeds when the 300 hectares was more intensively grazed will continue to be incurred in managing the conservation covenant, therefore this contributor to the farmer's taxable income does not change.

We assume that the farming partners meet the conditions to be approved for an income tax deduction.

We also assume that only the value of the land with a covenant on it declines due to the restrictions on future uses to protect the environmental values and that the rest of the property (1,000 hectares) maintains its market value. However, it is likely that the interaction of a covenant on the value of the rest of the property is more complicated. Common concerns from landholders interested in placing a conservation covenant include that it will negatively impact land valuations, affect the re-saleability and reduce ability to secure financing (Manners and Carrick 2008, p. 3). Research suggests that a number of factors will influence the impact a conservation covenant on a property title will have on its market value such as existing zoning restrictions on alternative uses, location and size of the property and the relative size of the covenant, whether the area outside of the covenant is capable of supporting some agricultural business or other enterprise or whether the property attracts a premium from those willing to pay for conservation properties (Hardy et al. 2017, pp. 282–283; Manners and Carrick 2008, p. 8).

Several costs potentially associated with covenanting part of the property are not quantified for the hypothetical example, including:

- the transaction costs to the farmers in considering the decision to place a conservation covenant on their property title
- any legal or administrative costs associated with the covenant that are not covered by Trust for Nature
- the costs incurred for an independent land valuation for the ATO deduction claim
- any costs incurred for working out tax implications with a tax advisor.

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<sup>21</sup> The cost of covenanting a property to protect habitat in perpetuity with Trust for Nature is \$30,000 + GST and includes covenant assessment and documentation, a registration fee, the development of a bespoke land management plan, and a contribution to ongoing stewardship costs to support landholders to manage the land effectively into the future (Trust for Nature 2024, p. 6).

<sup>22</sup> The Victorian Government provided \$2.8 million to support Trust for Nature's Iconic Estates program, which works statewide with private landholders seeking permanent protection through covenanting for properties with high biodiversity values (DEECA 2024b).



These costs may be significant, both in financial and time terms, relative to the conservation covenant deduction available over the five years.

Overall, we calculate that the decision to enter into the covenant results in the following changes:

- Total farm earnings in 2022-23 decrease by \$50,000 due to reduced stocking. This means our farmer's farm earnings decrease by \$25,000 to \$177,684.
- The total property declines in value by \$1,333,800 (approximately 13.7%) to \$9,100,000 due to the covenant on the title.<sup>23</sup>

### Income tax implications

Because we assume that the covenant satisfies the conditions for the relevant tax concessions, the partners are entitled to an income deduction equal to the fall in value of the land. This may be spread over a maximum of five years. Our farmer is entitled to an income deduction of \$666,900 – half the total decline in the property's value.

Given that this amount is multiple times the farmer's taxable income in 2022-23, they cannot claim the full amount of the deduction in this year (the income tax deduction cannot be used to create or add to a tax loss). The farmer can claim any amount between \$0 and \$82,079 (their taxable income without the deduction) in 2022-23 (table 5), with the remainder available to be claimed over the next four financial years. We assume they claim \$82,079.

Farming income can fluctuate significantly from year to year. A farmer's decision on when to claim deductions over the five year period following entering into a covenant will thus depend on their expectations about their income in each financial year over this period and the interaction with other tax arrangements they are using to manage their farming enterprise (table 2).<sup>24</sup> The value of the deduction – income tax avoided – is higher in years when a farmer earns more income, due to progressive marginal tax rates. So, a farmer may choose to 'front load' the deduction in the first or earlier years of the five-year period if they expect their taxable income to be higher then. Or they may choose to defer claiming a deduction if they anticipate higher farm income in later years. A challenge for the farmer is that they will need to allocate the income tax deduction over the following four years without knowing how much taxable income they will have.

**Table 5 – Income tax implications from conservation covenant tax concessions**  
**Estimates for a hypothetical farmer in 2022-23**

	Without a covenant	With a covenant
<b>On- and off-farm earnings and effects of primary production tax arrangements on taxable income</b>		
Primary production earnings	\$202,684	\$177,684
Less capital depreciation and deductions for primary production	\$137,000	\$137,000
<i>On farm taxable income</i>	<i>\$65,684</i>	<i>\$40,684</i>
Plus non-primary production income	\$41,395	\$41,395

<sup>23</sup> We have assumed that by placing a covenant on 300 hectares, the value of that land is reduced by just over 55%. Post covenant, the value of the property is therefore  $(1,000 \times \$8,026) + (300 \times \$3,580) = \$9,100,000$ .

<sup>24</sup> For example, tax averaging provides a tax credit or debit depending on the taxable income in a given year relative to the average over the previous five years and claiming the conservation covenant deduction will have implications for the 'averaging adjustment' in future years (ATO 2024a).

	Without a covenant	With a covenant
<i>On + off farm taxable income</i>	\$107,079	\$82,079
<b>Plus the effects of conservation covenant tax concessions on taxable income</b>		
Total income tax deduction	n/a	\$666,900
Income tax deduction claimed in this financial year = on- + off-farm taxable income	n/a	\$82,079
<i>Taxable income post income tax deduction</i>	\$107,079	\$0
Plus discounted net capital gain <sup>a</sup>	n/a	\$118,787
<b>Total taxable income and tax due</b>		
Total taxable income	\$107,079	\$118,787
Tax due	\$25,415	\$29,072

a. Calculated as the farmer's share of the capital proceeds (\$666,900) stemming from the income tax deduction, less their share of the cost base of the covenant (\$191,751.50), discounted by 50% for the CGT discount and a further 50% for the small business CGT reduction. The cost base of the covenant is calculated as the percentage change in the value of the land ( $\$1,333,800 / \$10,433,800 = 0.1278$ ) multiplied by the cost base of the entire property pre the covenant (\$3,000,000), with the farmer's share being half this amount.

Source: PC estimates.

## CGT implications

Claiming a conservation covenant deduction triggers a CGT liability for the partners. Unlike the conservation covenant deduction, which can be claimed over five years, the CGT liability must be paid in full in the first year that the conservation covenant income tax deduction is claimed.

The farmer's capital proceeds from entering into the covenant are the income deduction they are entitled to receive, that is, \$666,900.

Before tax is applied, eligibility for concessional CGT treatment means these capital proceeds are reduced by the farmer's share of the cost base for the covenanted land (\$191,751.50). Their capital gain is therefore \$475,148. A 50% CGT discount (because they have owned the farm for more than 12 months) and the 50% small business reduction are then applied leaving the farmer with a net capital gain of \$118,787.

Tax payable on this net capital gain depends on the farmer's taxable income in 2022-23 after deductions for primary production and the conservation covenant deduction are applied and is calculated by applying their marginal tax rate (table 5).

In this hypothetical example, the farmer's tax burden in 2022-23 (\$29,072) is higher than if they had continued to operate without the covenant (\$25,415). This is essentially because the tax owed due to triggering a CGT event outweighs the reduction in tax from claiming an income tax deduction in year 1.

Taxable income over the five years to 2022-23 varied between \$61,656 to \$87,747 (that is, half of the taxable income amounts in table 4). Should conditions remain the same over the next four years the farmer

could potentially receive a net tax benefit of approximately \$95,000 from entering into the covenant.<sup>25</sup> However, the farmer would also forfeit just under half of the income tax deduction that they were entitled to.<sup>26</sup> On net, the farmer would be about \$161,505 worse off than if they did not covenant their land.<sup>27</sup>

Even though the net benefit of the tax concessions for entering a conservation covenant are uncertain for the farmer (farm income can be highly variable from year to year), it is unlikely that a farming enterprise of this size and the income it generates on average will find the tax incentives compelling enough to initiate a covenant, particularly when factoring in the transaction costs involved in working with the farm's tax advisor to determine the optimal time to initiate the process and then getting approval for the deduction from the ATO.

## 5 Current tax settings raise concerns

### 5.1 It is difficult for farmers to determine the likely value of the conservation covenant tax concessions

Our analysis illustrates the complexity of the tax arrangements facing a farmer who is considering entering into a conservation covenant.

- The effect of a covenant on the market value of their land, which determines the size of the income tax deduction and the net capital gain, only becomes clear following valuation by the ATO.
- While they might qualify for an income tax deduction in the year a covenant is enacted to compensate for the fall in land value, this is offset by the CGT liability created by the deduction.
- Any assessment of the value of the income tax deduction upfront rests on the how it is spread across five years. A farmer's earnings will vary from year to year, making it difficult to plan to claim it in the year that the highest marginal tax rates would apply.

If their CGT liability outweighs the deduction to which they are entitled, a farmer will face a higher tax bill in the year they enter into a covenant than they would have done. This might be offset over the subsequent years by tax savings from the income tax deduction measure, but the extent to which that is possible will depend on a range of unknowns, including:

- future farm earnings, which depend on market forces, environmental conditions and whether the farmer can no longer use the covenanted land or must use it at a lower intensity
- future off-farm earnings
- possible increased non-primary production income if a farmer can generate income from the conservation covenant such as through biodiversity offsets or approved projects for carbon or biodiversity credits. An increase in non-primary production income can affect access to, or the level of, primary production deductions (for example, Farm Management Deposits).

<sup>25</sup> Approximate amount based on an increase in income tax of \$4,000 in year one (2022-23) and \$25,000 income tax savings in the following four years.

<sup>26</sup> Assuming a claim similar to the \$82,079 claimed in 2022-23 for the following four years, the total claim would be \$410,395 of the entitlement of \$666,900.

<sup>27</sup> Calculated as the unused income tax deduction entitlement less the value of tax benefits received. Effectively this represents the loss of land value post 'compensation' via the net income tax benefit over the five years to 2027-28.

The farmer also needs to factor in the timing of other decisions which are essential to the profitable management of their farming enterprise and that give rise to primary production deductions, for example, investments in fencing and sheds.

It is likely that the financial implications of claiming the income tax deduction are too hard to work out and, if the size of the covenant is relatively small, not worth the effort of investigating. Pannell et al. (2006, p. 1,410) highlight that the decision-making process is imperfect and 'even if full information were available, there are limits to human mental capacity'.

## **5.2 Tax concessions for biodiversity conservation do not appear to be effective**

The hypothetical example also illustrates that a farmer may not be able to use their full income tax deduction and may end up financially worse off after entering into a conservation covenant.

The counteracting incentives created by the income tax arrangements for primary production and biodiversity conservation through a covenant means there is no unequivocal benefit to claiming the conservation covenant deduction, particularly when factoring in transaction costs.

As farmers often have relatively low tax liabilities, many likely face a significant risk of financial loss from entering into a conservation covenant. For example, the ABARES farm data survey reports the average farm business profit (farm cash income + change in trading stocks – depreciation – value of family labour) for all broadacre farmers surveyed over 1999-00 to 2023-24 to be just over \$40,000 (DAFF 2025a), although there is likely to be some discrepancy between what is reported as enterprise profit for the survey and what is reported to the ATO when considering various business structures and taxation measures available (for example, tax deductible deposits into a Farm Management Deposit account).

It has been suggested that awareness of the tax arrangements supporting conservation covenants is patchy. Selinske et al. (2022, p. 9) found that 'covenantors overwhelmingly selected Local government rates exemptions (71.8%) as their first preference of financial incentive'. They suggest that this preference likely reflects the familiarity and tangibility of rates relative to income tax concessions which 'are not as widely known, developed or applicable to covenantors ... despite potentially greater benefits' (Selinske et al. 2022, p. 10).

The national 30 by 30 roadmap (Commonwealth of Australia 2024a, p. 52) noted that:

Navigating the various tax concessions within and between jurisdictions, including local government rates and rebates, can be challenging. Raising awareness of the various tax concessions and making the different approaches more consistent may lead to greater uptake.

However, our analysis strongly suggests that tax arrangements are not providing an economic incentive for farmers to formally protect biodiversity on their properties beyond what they may have done because of their environmental and other values.

The decision to enter into, and the size of, a conservation covenant is likely to be specific to each farmer, depending on their circumstances and values. Collecting information on the types of landholders who are entering into covenants (that is, how many are primary producers), and their awareness of taxation arrangements, would be helpful in further understanding how effective (or not) the current taxation concessions are in influencing the decision process to formally protect biodiversity on farms.

### 5.3 Conservation covenant tax concessions do not align with desirable tax principles

Stepping back from the possible application of the various tax concessions to an individual farm, evaluation of the concessions offered by the Australian Government against the desirable characteristics of a tax and transfer system finds them wanting.

The Henry Tax Review set out five desirable principles for the design of the Australian tax (and transfer) system (box 2).

#### Box 2 – Characteristics of a good tax system

**Equity** (or fairness) – the system treats people in similar circumstances similarly ('horizontal equity') and people with more capacity to pay bear a higher tax burden ('vertical equity').

**Efficiency** – the system raises and redistributes revenue at the least economic and administrative cost.

**Simplicity** – the system is easy to understand and comply with, removing barriers to people meeting their obligations and claiming entitlements.

**Sustainability** – the system has the capacity to meet changing needs over time. This requires both durability to ensure predictability and affordability, and flexibility to respond to changing contexts.

**Policy consistency** – rules in one part of the system do not contradict those in another, and tax and transfer policy is as consistent with other government policies as possible.

Source: AFTS Secretariat (2009a, p. 17).

Conservation covenant tax concessions are not:

- **efficient** – tax treatment for income from different land use decisions is inconsistent, for example, as noted above, capital expenses incurred in Landcare operations can be deducted from farm income; costs incurred in protecting environmental values on covenanted land cannot. Also, the value of the deduction is determined by the market, and is tied to the production value of the land and not the value of the biodiversity that the covenant will be protecting
- **simple** – many variables influence the size and value of a farmer's income tax deduction, and it is likely that many farmers will not be able to claim the full amount to which they are entitled
- **sustainable** – the landscape for earning income from land is changing, particularly with the development of Australian Carbon Credit Units and the Nature Repair Market. Income tax deductions available to landholders (primary producers or otherwise) may no longer be fit for purpose
- **consistent with other policies** – income tax concessions are based on value loss; the Nature Positive policy landscape is about value adding.

Indeed, the Henry Tax Review found that tax concessions are a blunt tool for dealing with environmental issues, and in cases where providing a subsidy may be appropriate it is preferable to do so through direct grant programs (AFTS Secretariat 2009b, p. 357).

## **6 Incentives for protection of biodiversity on private land need to change if we are to meet the 30 by 30 target**

The Nature Positive Plan has an ambitious agenda to shift the way nature, and biodiversity specifically, is valued and considered in decision-making not just by policymakers but also individuals. There is a lot going on in this space, such as legislation reform and the standing up of new institutions such as Environment Information Australia and the establishment of the Nature Repair Market.

Protecting and conserving 30% of land by 2030 will be critical to preventing further environmental decline.

While tax concessions are available for protecting biodiversity across local, state and national jurisdictions, the most significant for farmers are the income tax deductions for conservation covenants.

But the complexity, costs and uncertainty associated with claiming the deduction and its actual use (as well as little relationship to the biodiversity value) suggest it is not an effective or efficient instrument for stimulating biodiversity protection on privately held land used for primary production.

This paper highlights that tax concessions, in particular income tax deductions, appear to have little effect on decisions to enter into conservation covenants, are likely to be inefficient and should not be relied on as a policy tool for increasing conservation on private land to meet the 2030 target.

The PC has not considered how tax arrangements could be improved to strengthen incentives for private landholders to undertake biodiversity conservation activities. But other authors have made many suggestions (appendix A). It is worth highlighting that the South Australian Government has recently passed legislation that contains provisions for the Minister of Environment to pay the owner of the land where a biodiversity agreement (operating in perpetuity) is in place an amount in respect of the decrease in the value of the land resulting from the execution of the biodiversity agreement.<sup>28</sup> In addition, this amount can be paid as an incentive to enter into the biodiversity agreement.<sup>29</sup> While the tax implications of such payments are not yet clear, these provisions for a direct payment seem to bypass some of the limiting conditions that face farmers in trying to recoup this loss as an income tax deduction.

There would be value in further work by governments to understand how incentives to conserve biodiversity on private land could be improved. In addition to reviewing income tax arrangements, this could include evaluation of the regulatory frameworks supporting the protection of existing biodiversity and enhancement of degraded landscapes and other instruments.

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<sup>28</sup> Biodiversity Act 2025 (SA), subsection 98(2)(g)(ii).

<sup>29</sup> Biodiversity Act 2025 (SA), subsection 98(2).



## Appendix A Literature review of tax reforms for incentivising private land conservation

Source	Tax reforms suggested
Selinske et al. (2022, p. 10)	Enrolment into covenant programs and maintenance of management agreements would likely benefit from increased and potentially universal access to full local government rates rebates for covenanted land, subsidised by state governments or the Australian Government, to reduce the financial burden on local governments.
Trust for Nature (2023, p. 2)	Expand 'landcare operations' deductions under subsection 40.630 to include 'ecological management and restoration' or 'management and restoration of ecosystem goods and services'. Amend section 31.5 of the <i>Income Tax Assessment Act 1997</i> (Cth) to remove the qualification around receiving money or other material benefits to allow conservation covenantors to meaningfully access this exemption.
Sandoval-Guzman and Stewart (2020, p. 2)	Review land valuation methods for all states, territories and local government taxes to ensure that these valuation methods produce an environmentally efficient outcome. Review state land tax and stamp duty exemptions for primary production; reduce or remove these exemptions or consider equivalent exemptions for land conservation restoration of native flora and fauna and forest planting for emissions reduction. Review and redefine 'landcare', building depreciation and primary production tax rules to improve environmental impact. Explore tax incentives to support 'greening' of productive activities, processes and upgrades and ensure that policies are part of a coherent framework. Consider a split-receipting approach or CGT exemption for land conservation.
Smith et al. (2016, pp. 449–450)	<ol style="list-style-type: none"> <li>1. Landowners who receive a payment or incentive for permanently protecting environmentally sensitive land should remain eligible to receive a tax deduction spread over five years for any unremunerated value of the 'land use and development rights' effectively given up (gifted) in establishing permanent protection.</li> <li>2. 'Landcare operations' deductions under the ITAA should be reviewed with a view to broadening the availability of concessions to include 'ecological management and restoration'.</li> <li>3. Non-capital expenditure should be included and all landholders with conservation covenants should be entitled to a deduction against assessable income for conservation works expenditure whether funding has been received or not.</li> <li>4. The Australian Government should exclude payments for conservation activities from taxable income where the associated costs are not claimed.</li> <li>5. A standalone treatment of the revenues from the management of ecosystem services as a category of economic activity.</li> <li>6. Land protected by in-perpetuity conservation agreements registered on the title of land should be exempt from GST on future sale/purchase.</li> <li>7. Exempt land purchased for nature conservation from GST on the undertaking of the purchaser to place a perpetual conservation covenant within two years of the date of purchase.</li> </ol>
Wentworth Group of Concerned Scientists (2015, p. 9)	<ol style="list-style-type: none"> <li>1. The Australian Government should eliminate fossil fuel subsidies and tax expenditures that damage the environment and use part of these savings to provide a financial base to pay farmers and other landholders to repair the environment.</li> </ol>

Source	Tax reforms suggested
	<ol style="list-style-type: none"> <li>2. A comprehensive and broad-based land tax levied on a per square metre basis rather than on the aggregate holdings of landowners and with a tax-free threshold, should be used to provide a secure and equitable funding base to remediate past damage.</li> <li>3. Additional revenue raised by a broad-based land tax should be used to eliminate inefficient stamp duties and also pay farmers and other landholders the costs of remediating past damage to Australia's land, water, coastal and biodiversity assets.</li> </ol>

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