



# fact sheet

*knowledge for managing Australian landscapes*

## If you build them, will they pay? – Institutions for private sector nature conservation

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### Background

Although three-quarters of Australia's land is privately managed via ownership or long-term lease, natural resource management and nature conservation have been dominated by the government sector. Governments have only recently given consideration to the potential contribution of the non-government sector. This has reduced the opportunities for private sector capital and expertise to be motivated and involved in natural resource management in Australia. The involvement of the non-government sector in natural resource management in some other countries, such as the United States and England, is much larger.

### Approach to the project

This project investigates whether a larger non-government sector is desirable for natural resource management in Australia and how this might be facilitated.

The range of conservation tools available to natural resource managers in Australia, the US and England were compared.

Organisations in US and England whose work affects, or is predominantly undertaken on, privately owned land, were selected to demonstrate the scale and scope of the non-government sector in these countries. One or more representatives were interviewed from each organisation. Additional information about the organisation was collected during the interviews, such as annual reports, magazines/newsletters for members and program information.



To develop a framework for analysis of the incentives of private sector NRM, the study investigated the relationships between the land managers and:

- consumers of natural resource outputs;
- owners and managers of other resources required to produce outputs; and
- those harmed if the resources were reallocated to other uses.

## Key findings

Organisations active in the US and English conservation sectors use a range of tools to achieve their goals, including property rights, regulatory structure, contracting and organisational structures and common law. A number of tools are available in the US or England that are not available in Australia. These tools are generated by the differing institutional structures in the US and England. These case studies indicate that given appropriate institutions, the community will pay. Examination of the tools and institutional structures led to a number of findings that could inform the Australian policy context.

### Property rights

The property right regimes in the US are better developed than in Australia, providing private organisations in these countries with more avenues and incentives to conserve land, water, flora and fauna.

### Regulatory structure

Resource-based regulations restrict access to benefit streams from specified resources. Zone-based regulations restrict access to specified benefit streams based on the geographic position of the resource. Both types are legitimately used to constrain markets to minimise costs or losses to third parties but in doing so, may diminish benefits to property right holders.

## Contracting and organisational structures

Reducing the transaction costs to natural resource management via the taxation system does not remove the cost from society as a whole (as the costs are subsidised via the tax system). However, it may avoid government failure and may achieve a more efficient outcome. In the US nearly all forms of donation are tax deductible over a number of years and they are also exempt from capital gains tax. Subsidised development programs and farm income support schemes are a major historical cause of natural resource destruction and the researcher recommends that all remaining subsidies be removed or their impacts on natural resources be made more transparent.

### Common law tools

Rehabilitation or restoration of natural resources such as wetlands can prove to be far more problematic than the initial draining of these areas. This provides potential disincentives to private sector conservation

A legal difference between Australia and England relates to the legal standing of non-government organisations. Although standing is granted in some cases, it is not uniform across differing issues and states. Where such organisations can identify appropriate forms of damage to their constituency, they should have legal standing.

## Recommendations

Policy implications can be divided into two groups. The first comprises those that can create competitive equality between private-sector not-for-profit organisations, government and other private sector firms. Possible changes to taxation incentives laws that do not extend the incentive are also included in Group 1. The second group comprises additional policy implications for increasing the level of private-sector nature conservation.

## Group 1 reforms

To create competitive equality between private-sector not-for-profit organisations, government and other private sector firms

### Property rights

- Continue reform of water property rights.
- Check that no restrictions exist that could reduce incentives for conservation such as property size constraints.
- Investigate and facilitate use of easements for land and water.
- Develop mechanisms to allow producers to access gains from production of natural resource outputs where possible.

### Incentives

- Treat perpetual and temporary easements equally under not-for-profit organisation laws.
- Eliminate penalties and broaden scope for reinvested funds for not-for-profit organisations
- Allow a suitable time for this exchange or reinvestment.
- Ensure adequate period over which donations can be deducted from tax.
- Remove remaining agricultural development subsidies, such as higher rates of depreciation and irrigation supply.
- Increase use of private-public management partnerships.
- Investigate broader application of alternative management entities such as trusts, catchment management committees and water management committees.
- Develop mechanisms to establish and mentor not-for-profit organisations.

## Common law

- Investigate common law disincentives for natural resource restoration.
- Ensure the principle of 'Use your own property so as not to harm another's' is applied for natural resources.
- Investigate the degree to which non-government organisations have legal standing to act on behalf of the community.

## Regulation

- Ensure community access to development planning processes covering both monetary and non-monetary environmental damage.
- Investigate use of bonds and insurance against environmental damage from development.
- Facilitate conservation group ownership of easements or resources.
- Reduce or remove disincentives from legislation such as endangered species.
- Encourage conservation solutions that include a wider variety of inputs other than just land.
- Facilitate innovation in conservation management.
- Facilitate use of conservation 'banks'.

## Group 2 reforms

To further enhance the competitive ability of not-for-profit organisations and private sector investors through the taxation system

- Ensure donations of water rights/licences are tax deductible.
- Treat all conservation and business inputs equally.
- Treat perpetual and temporary easements equally under tax laws.
- Allow 'discount' land sales for conservation purposes to be tax deductible.
- Increase state and local tax concessions for conservation.
- Remove capital gains tax from sales and donations to conservation groups.

- Remove tax deductibility from business inputs that result in natural resource destruction.
- Consider treating donations to conservation groups as tax credits rather than deductions.
- Consider allowing deductions at greater than 100% for donations to conservation groups.

## Contact

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