
The Parliament of the Commonwealth of Australia

Public good conservation: Our challenge for the 21st Century.

**Interim report of the inquiry into the Effects upon Landholders
and Farmers of Public Good Conservation Measures Imposed by
Australian Governments**

House of Representatives
Standing Committee on Environment and Heritage

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Canberra

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Contents

Foreword.....	vii
Membership of the Committee.....	xi
Terms of reference	xiii
List of abbreviations.....	xv
List of recommendations.....	xvii

THE REPORT

1 Overview.....	1
Introduction.....	1
Inquiry background.....	9
Conduct of inquiry.....	10
Relationship to <i>Co-ordinating catchment management</i>	10
Structure of the report	12
2 Policy ideas and framework for public good conservation.....	15
Introduction.....	15
Who manages the land?	16
What is public good conservation?.....	17
Is the distinction between public and private goods useful?.....	20
Property rights	24
Duty of care.....	31
What is a duty of care for the environment?.....	35
The limits of a landholder's duty of care.....	38

Difficulties with a legislated duty of care based on the common law	42
Ideas in action – Cost sharing principles	46
Conclusion	53
3 Impact on landholders of public good conservation measures	57
Introduction	57
Cost of programs to landholders	58
Impact on property value.....	63
Access to finance	64
Uncertainty surrounding a landholder's land-use rights	65
An alternative view	67
Conclusion	67
4 Public good conservation measures abroad	69
Introduction	69
The European Union	71
Result of the 1992 reforms of Common Agricultural Policy (CAP).....	73
Agenda 2000 Reform of the CAP and additional agri-environment measures	74
Other European Union support programs	76
Agri-environment schemes in England.....	78
Agri-environment schemes in the United States	80
Opportunities for non-government contribution	82
The United States.....	82
England and the United Kingdom.....	83
Taxation arrangements	84
Legislative and regulatory approaches.....	88
Conclusion	88
5 The policy foundations of public good conservation	91
Introduction	91
Limitations of the current policy approach as perceived by some landholders	92
Is there sufficient knowledge to implement cost - sharing systems?	92
Does a landholder's own self-interest provide a sufficiently motivating reason?	96
Is the current approach to cost sharing an effective policy?	98

Does current policy accurately reflect the nature of land use?	105
Do international agreements preclude outcome-oriented natural systems management policies?.....	109
Should incentives be used to promote conservation activities?	110
Do current policy approaches acknowledge existing public good conservation activities by landholders?	116
Do current policy approaches contain incentives that lead to inappropriate land management practices?	117
Do current policy approaches contain inequities?.....	120
Conclusion	125
6 Policy initiatives for public good conservation programs	127
Introduction	127
Appropriate policy principles for public good conservation	130
Principle 1: Landholder rights in respect of land use.	130
Principle 2: All land holders have a duty of care to manage land in an ecologically sustainable manner	132
Principle 3: Policies and programs must focus on outcomes.....	134
Principle 4: Repairing past damage is a shared responsibility.....	135
Principle 5: All programs must be tailored to the needs of the circumstances.....	136
Principle 6: All programs must be based on the latest and best scientific data	136
Specific policy initiatives	137
Provide incentives to undertake public good conservation activities	139
Provide transition assistance to ecologically sustainable forms of production and management.....	140
Pay management costs when land is removed from production for public good conservation reasons.....	142
Effective assistance for ongoing land management costs	146
Where land use is removed altogether, pay compensation	152
Reform taxation laws, state and local charges to remove anomalies	158
Foster ecologically sustainable industries	173
Develop legislative structures.....	181
Develop market mechanisms only where appropriate	184
Provide access to finance	187

APPENDICES

Appendix A – List of submissions 193

Appendix B – List of exhibits.....203

Appendix C – List of public hearings.....207

Appendix D – Inspections and discussions.....215



Foreword

There is little doubt that Australia faces an environmental crisis. There is also little doubt that the consequences of failing to act in an appropriate way will be crippling to our society and our economy.

The large cities of our country all depend upon the products of rural Australia. They rely upon the water generated in the nation's catchments and the eco-services our countryside provides. The entire nation derives economic benefit from the tourism industry that rests to a significant extent on the natural beauty inherent in our country's landscape.

The entire community must, therefore, act sooner rather than later to address the environmental problems facing the nation. The Committee reached this conclusion in its report *Co-ordinating catchment management* and affirms it in the present report.

Given the nature of the environmental problems facing the nation, all landholders will have to significantly change the way that they manage land. This process is already under way, but much more needs to be done.

A major part of this process is that landholders are, increasingly, required to undertake conservation works from which they can anticipate little or no immediate benefit. Even in the medium and longer terms, they may derive only limited benefits. The major beneficiaries will be 'off site' and usually will be the general community.

Conservation activities that a landholder undertakes, either voluntarily or as a requirement of managing land, which benefit someone other than the landholder undertaking the activities are public good conservation activities.

This inquiry was provided with evidence that public good conservation activities raised two major issues for landholders and ultimately for the entire community. These issues are not trivial matters and it was clear that they must be addressed at the highest levels of government.

First, a large number of landholders have often been required to meet a significant portion of the cost of public good conservation programs, even though they derived limited or no benefit from the activities. This has led to calls for financial assistance for landholders so that they can implement public good conservation programs.

Second, landholders are often required by one or other level of government to undertake public good conservation measures. The Committee was advised that such regulations are considered by some landholders to erode what they have been led to believe are their property rights. This has led to calls for compensation for the putative property rights that landholders believe have been taken from them.

The evidence the Committee received indicated that the present policy arrangements were not addressing these concerns. As a result, less public good conservation was occurring than was desirable given the depth of the environmental problems facing the nation. Moreover, the landholders who made submissions to the inquiry and who gave evidence indicated a high level of frustration and reported anger and resentment in the rural community as a result of what were perceived to be inappropriate policies.

The evidence suggested to the Committee that nothing short of a re-configuration of land use practices in Australia is required. Crops and products produced at present will need to be produced in different and more sustainable ways. New industries will need to be developed and new markets may well be created.

The major drivers of the re-configuration of Australian land use will be landholders.

This inquiry discovered that landholders in this country were eager to change their land use system, because they care about their land and they care about the future. Often, however, they do not have the resources to do so.

Evidence provided to the Committee indicated that if landholders do not possess the financial capacity to undertake the conservation works required, then the works are unlikely to occur and the environmental problems facing the nation will remain and only get worse.

Moreover, the Committee considers that the problems facing land use in Australia present opportunities to our farming community and the nation. Those opportunities will be realised only if the transition from dangerous land management practices to sustainable land use practices is managed sensibly and pragmatically.

The present inquiry found that this was not occurring to the extent required.

The Committee saw clearly that the challenge for governments is to ensure that the requirements on landholders and community are fair and equitable and that landholders have access to the necessary information and financial resources to make the transition. Furthermore, governments also have to ensure that their policies are practicable.

The recommendations in this report aim to attain these outcomes. For this reason, the present report is a companion report to the Committee's earlier report, *Co-ordinating catchment management*. In that report, the administrative structure required was set out and recommendations made. Moreover, the Committee recommended that the government examine the feasibility of using a national environmental levy to provide the public component of the financial resources that addressing environmental degradation required. The Committee affirms those recommendations.

In this report, further policy initiatives are recommended. The Committee believes the recommendations contained in the two reports provide a comprehensive system that will not merely halt and reverse environmental degradation, but revitalise rural Australia and provide employment opportunities to rural and urban Australians. Just as importantly, the recommendations in the two reports provide what Australians want and have come to consider theirs: a sustainable and environmentally responsible lifestyle unequalled anywhere in the world.

The Hon Ian Causley MP
Chair



Membership of the Committee

Chair Hon Ian Causley MP

Deputy Chair Mr Anthony Byrne MP

Members Mr Phillip Barresi MP

Ms Jane Gerick MP

Mr Kerry Bartlett MP

Mr Harry Jenkins MP

Mr Bruce Billson MP

Hon Dr Carmen Larwrence MP (to 27/11/2000)

Ms Ann Corcoran MP (from 27/11/2000)

Mr Patrick Secker MP (from 29/3/2001)

Mrs Chris Gallus MP (to 8/3/2000)

Mrs Danna Vale MP

Committee Secretariat

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Terms of reference

The House of Representatives Standing Committee on Environment and Heritage will enquire into and report on:

- the impact on landholders and farmers in Australia of public-good conservation measures imposed by either State or Commonwealth Governments;
- policy measures adopted internationally to ensure the cost of public good conservation measures are ameliorated for private landholders;
- appropriate mechanisms to establish private and public-good components of Government environment conservation measures; and
- recommendations, including potential legislative and constitutional means to ensure that costs associated with public-good conservation measures are shared equitably by all members of the community.



List of abbreviations

ABARE	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
AFFA	Agriculture, Fisheries and Forestry Australia
ANZECC	Australian and New Zealand Environment and Conservation Council
ATO	Australian Tax Office
CAP	Common Agricultural Policy
CRP	Conservation Reserve Program
CSIRO	Commonwealth Scientific and Industrial Research Organisation
EA	Environment Australia
EAGGF	European Agricultural Guidance and Guarantee Fund
ECU	European Currency Unit ['Euro']
EEC	European Economic Community
EPA	Environmental Protection Agency
EQIP	Environmental Quality Incentives Program
ERDP	England Rural Development Program

EU	European Union
FSA	Farm Service Agency
MAFF	Ministry for Agriculture, Fisheries and Food
NRCS	Natural Resources Conservation Service
PGA	Pastoralists and Graziers Association
RFA	Regional Forestry Agreement
SCARM	Standing Committee on Agriculture and Resource Management
UMCCC	Upper Murrumbidgee Catchment Coordinating Committee



List of recommendations

Policy ideas and framework for public good conservation

Recommendation 1 30

The Committee recommends that when programs are designed that aim to promote public good conservation, the generally perceived moral rights of landholders are acknowledged and taken into account in the design of programs

Recommendation 2 56

The Committee recommends that:

- the Commonwealth seek agreement with the states and territories for a commonly accepted definition in principle of a landholder’s duty of care;
- this definition be that landholders have a duty of care to manage the land in their charge in a way that is ecologically sustainable, given the particular geographical location, and based upon latest scientific information;
- all legislation in all jurisdictions be amended to incorporate this duty of care, as a minimum standard of land management; and
- all Commonwealth funding for public good conservation activities and ecologically sustainable use of Australia’s resources be dependent upon the recipient accepting this duty of care

The policy foundations of public good conservation

Recommendation 3 126

The Committee recommends that the policy foundations for public good conservation funding be focused upon attaining good conservation outcomes while addressing the equity issues revealed in this inquiry

Furthermore, the Commonwealth should work with the states to recast the existing cost-sharing principles so that they focus on achieving conservation outcomes, while including a full recognition of the equity concerns of landholders raised in this inquiry

Policy initiatives for public good conservation programs

Recommendation 4 133

The Committee recommends that the Government fund an appropriate test case when one is identified, in which a landholder has been harmed by the way in which another landholder has used his or her land.

Recommendation 5 137

The Committee recommends that public good conservation policy be based on the following six principles:

Principle 1: Landholder rights in respect of land use;

Principle 2: All landholders have a duty of care to manage land in an ecologically sustainable manner;

Principle 3: Policies and programs must focus on outcomes;

Principle 4: Repairing past damage is a shared responsibility;

Principle 5: All programs must be tailored to the needs of the circumstances; and

Principle 6: All programs must be based on the latest and best scientific data.

Recommendation 6 142

The Committee recommends that the Government establish a rural conservation development fund or similar funding vehicle to provide a comprehensive and accessible scheme of incentive measures including:

- Funds for research into new and environmentally friendly rural industries; and
- Direct financial assistance to landholders, for the transition from environmentally degrading land use systems to ecologically sustainable land use systems that are in line with a landholder's duty of care, and include:

⇒Financial incentives;

⇒Direct payments to purchase eco-services;

⇒Access to information and expertise; and

⇒Access to materials (for example, heavy machinery, seedlings, fencing material and so on).

Recommendation 7 152

The Committee recommends that the Government:

- introduce a scheme to provide tax concessions in respect of the management costs, to landholders who are required to or who voluntarily reserve land of conservation value for public good conservation reasons by placing a covenant on the land;
- remove disincentives in Commonwealth laws, including taxation laws, faced by landholders who are willing to enter into covenants, in particular by providing taxation concessions in respect of the value of the covenant;
- provide rate relief directly to local government for landholders who have entered into covenants;
- provide ongoing financial assistance to landholders to manage land that has been placed under a covenant, provided that no other financial benefit is being derived from the land (for example trading in excess fauna and flora); and
- make agreements with the respective jurisdictions in the Commonwealth for the streamlining of land management laws so as to facilitate the development of covenants.

Recommendation 8 158

The Committee recommends that the Commonwealth, in co-operation with the states and territories establish a revolving fund to purchase and manage land holdings where:

■ there has been a significant fall in value of a landholding owing to the imposition of public good conservation requirements; and

■ the property has become unviable

for the purpose of resale as a financially viable business operated according to ecologically sustainable land use practices, as specified in a covenant.

Recommendation 9 162

The Committee recommends that Subdivisions 387 A and 387-B of the *Income Tax Assessment Act 1997* be amended to provide the capital allowances, at present only available in respect of conservation activities on land used for income generating purposes:

■ be increased; and

■ be available automatically for all landholders who place land under an approved covenant; or

■ be available only to landholders who operate that land under an approved management plan:

⇒ which provides for ecologically sustainable land use or

⇒ which provides for transition to that usage system;

⇒ irrespective of whether those activities are on income producing land or not; and

⇒ which is reviewed at five yearly intervals.

Recommendation 10 163

The Committee recommends that the government ask the CSIRO to prepare a report for presentation to Parliament, no later than 30 June, 2002, on any taxation anomalies and disincentives within the current taxation arrangements in respect of promoting conservation activities by landholders, non-landholding individuals, charities and private sector organisations, and to recommend changes, with costings, where known.

Recommendation 11 169

The Committee recommends that any financial consideration paid to a landowner for registering a perpetual conservation covenant on land title not be assessed either as income or as capital gain, provided that the covenant has been agreed as part of an approved covenanting program.

The Committee further recommends that the taxation and administrative arrangements attaching to the development of a covenant be streamlined and made much less complex.

Recommendation 12 172

The Committee recommends that the government investigate a scheme to provide financial assistance to local government to provide a rebate of local government rates (including the cost of additional employees) provided that the:

- states and territories also contribute to the scheme;
- land that is managed in accordance with an approved conservation management plan or the land has been placed under a covenant;
- landholder is not deriving any taxable income from the land for which the rebate is sought; and
- councils with smaller rate bases should receive special consideration to help foster conservation activities in their areas.

Recommendation 13 174

The Committee recommends that the Commonwealth government work with COAG to identify, develop and foster ecologically sustainable rural industries.

Recommendation 14 180

The Committee recommends that the Commonwealth government develop a licence based system, that would permit landholders to use Australian native flora and fauna for commercial purposes provided that such use is permitted only as part of an ecologically sustainable land use program and only where there is a net conservation advantage.

The Committee further recommends that, in order to develop this system, the penalties for smuggling native flora and fauna be substantially increased.

Recommendation 15 182

The Committee recommends that the Commonwealth enter into negotiations with the states and territories for them to enact complementary legislation, where such legislation is lacking, that will enable landholders facing incursions of weeds or pest animals from adjoining properties to compel adjoining landholders to manage their land so as to reduce such incursions.

The Committee further recommends that all crown land should be managed so that such incursions do not occur and the Commonwealth negotiate with the states and territories for those jurisdictions (including the Commonwealth itself) to adopt such a policy.

Recommendation 16 184

The Committee recommends that the Australian Law Reform Commission be asked by the Commonwealth government to conduct an investigation into the options for the Commonwealth alone, or in concert with the other Australian jurisdictions, to establish an environmental arbitration and adjudication system to resolve disputes arising under environment and land management legislation.

Recommendation 17 187

The Committee recommends that the Commonwealth government maintain a neutral position in terms of the preferred approach to attaining conservation outcomes and assisting landholders to attain them, and that the most promising market-based approaches to addressing environmental degradation be examined and developed alongside the more direct approaches recommended in this report.

Recommendation 18 188

The Committee recommends that the Commonwealth government develop a proposal for a revolving fund to purchase land that has conservation significance or retire land from use, including model legislation and costings, and that this proposal be presented to Parliament no later than 30th June 2002.

Recommendation 19 191

The Committee recommends that the Commonwealth government, in co-operation with the states and territories:

■ investigate an ecologically sustainable development finance authority for the purpose of providing to landholders low interest loans for transition to ecologically sustainable land management systems and the development of ecologically sustainable industries; and

■ if found feasible, request the Commonwealth Parliament to enact legislation to provide for the establishment of private sector ecologically sustainable investment corporations, to provide investment capital for ecologically sustainable industries. Investment in such corporations should:

⇒ be open to landholders and non-landholders alike;

⇒ attract a 150 per cent tax deduction up to a maximum of \$1,000,000 for any one investor; or

⇒ in the case of low income investors, a 100 per cent tax rebate, up to a maximum of \$2,000 per individual per tax year; and

⇒ attract a concessional capital gains tax rate.

Recommendation 20 192

The Committee recommends that the Minister for Environment and Heritage ask the Committee to conduct an inquiry into the effectiveness of different approaches to attaining public good conservation outcomes, and further inquire into the effects upon landholders, land use, cultural value, and rural communities, both here and abroad, of those approaches.