

Statutory Conservation Covenants and Property Values

Points to consider before entering into a Voluntary Conservation Covenant

This fact sheet outlines some basic concepts about land valuations and provides considerations for land owners who wish to minimise the impact of a statutory conservation covenant on market land values.

Highest and Best Use

Land valuations are based on the 'highest and best use' of the land. Although there is growing support of conservation as a highest and best use for some land, there are no widely-accepted methods for estimating its value. Current appraisal practice still requires that properties be appraised based on their conventional economic use (residential, commercial, industrial, etc.) regardless of their conservation potential.

Encumbrance vs Free Enjoyment

Just like an easement, a statutory conservation covenant is considered an encumbrance on the property title. Perspective buyers will carefully consider how much a covenant would restrict their free enjoyment of the property. The degree of the encumbrance will depend on the specific conditions and obligations placed on future owners and the portion of the property to which they apply.

Conservation Ethics and Non-Monetary Benefits

To a potential buyer who has a strong conservation ethic, a covenant may not be perceived as an encumbrance. Lifestyle trends suggest that the

opportunity to own a well-managed protected area with significant ecological values is finding a small but growing niche in the property market.

Some landholders who voluntarily place a covenant on their land are motivated by a personal non-monetary benefit, gained through ensuring the protection of their land. In making this decision they are essentially equating this non-monetary benefit to any reduction in perceived market value of the property.

South East Queensland Case Studies

In 2008, a working group of Local Governments and SEQ Catchments commissioned a study to examine the impacts of statutory conservation covenants on land values.

The ensuing report, *An Analysis of the Impacts of Statutory Covenants on Land Values in South East Queensland*, examined 17 case study properties, all of which had a statutory conservation covenant voluntarily registered on title. Current land values were determined on case study properties with a comparative and hypothetical value determined for the same land parcel minus the covenant.



The study found that for the majority of case studies, the impact on property values from a statutory conservation covenant was negligible (defined as less than 5% of market value). However, it also found that a covenant did have a significantly negative impact on the market value of five case studies due to a considered loss of subdivision potential, curtailing of agricultural activity and lack of residential envelope.

The report indicated that if the following guidelines are applied, a statutory conservation covenant has minimal impact on market land values when:

- The land has no potential for higher use.
- The land is principally residential or rural land.
- The residential envelope will cater for land use common to the locality.
- The covenant is a small proportion of the total land area.
- The land is infertile or of low productivity.
- The land is steep and inaccessible or low-lying and wet.
- Independent property valuation advice is sought prior to entering into a statutory conservation covenant.



A statutory conservation covenant is less likely to have an impact on market land values when:

The land has no potential for higher use.

- ◆ The property can not be subdivided.
- ◆ The property has no commercial or industrial potential.
- ◆ The area of land outside the covenant is capable of supporting some agricultural business or other rural enterprise.
- ◆ The covenant does not affect the way a purchaser would otherwise use the land.

If the property can be subdivided or has other commercial or industrial potential, and if the covenant restricts this future potential, a statutory conservation covenant may significantly reduce market values.

The land is principally residential or rural land.

- ◆ If the land is zoned residential and has no potential for commercial or industrial development, then the impact of a statutory conservation covenant is likely to be minimal.

The residential envelope will cater for land use common to the locality.

- ◆ The covenant provides for a residential envelope that allows the property to be used in the same way as other properties in the locality. For example, the

residential envelope is substantial and allows for residential use, horses and stabling in an area where horses are popular.

- ◆ The property is a smaller acreage in a locality where the community values the natural environment.
- ◆ The locality is favored for bushland living and a covenant would not affect the way a purchaser would use the land.

The covenant is a small proportion of the total land area.

- ◆ An adequate residential envelope around the house has been nominated. Where feasible allow for other land uses such as an orchard, open space, play area and a sufficient fire break.
- ◆ The property is larger than surrounding blocks and provides an ample residential envelope.
- ◆ The property is a multi-lot aggregation and a building envelope has been provided on each lot.

The land is infertile or of low productivity.

- ◆ The property has limited potential for economic gain through agriculture.
- ◆ The property is rural and land clearing will not improve the productivity of the covenant area.

The land is steep and inaccessible or low-lying and wet.

- ◆ The covenant lies over parts of the property that a prudent owner would not be inclined to clear for economic gain.
- ◆ The covenant lies over steep or inaccessible land that a prudent owner would leave untouched for aesthetic and ecological reasons.
- ◆ The covenant lies over areas that are flood prone and therefore have restricted development potential or land use options.

Independent property valuation advice is sought prior to entering into a statutory conservation covenant.

Unimproved Values

The report found that statutory conservation covenants do not affect unimproved land values as Section 17 of the Valuation of Land Act states that "highest and best use" is not applied to residential and farming properties.

Tax Concessions

If the market value of a property devalues significantly (more than \$5000) as a direct result from a statutory conservation covenant, the Commonwealth Government offers tax concessions to compensate. Grounds also exist for an assets review for the purposes of a means-tested pension.

The study and report *An Analysis of the Impacts of Statutory Covenants on Land Values in South East Queensland (2008)* was commissioned by a working group of SEQ Catchments, Brisbane City Council, Gold Coast City Council, Logan City Council, Moreton Bay Regional Council, Redland City Council and Sunshine Coast Regional Council. For copies of a non-confidential version of the report or more information, please contact SEQ Catchments on 07 3211 4404.



Disclaimer: Information contained within this fact sheet and in the report *An Analysis of the Impacts of Statutory Covenants on Land Values in South East Queensland (2008)* do not necessarily reflect the views of any of the supporting agencies, nor should the information be taken as property valuation advice.